



**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 Planning Division staff for August 2, 2016

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

Item 1: Newport Harbor Medical Plaza Staff Approval No. SA2016-006 (PA2016-065)
Site Address: 328-340 Old Newport Boulevard

Action: Approved Council District 2

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.



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Application No. **Staff Approval No. SA2016-006 (PA2016-065)**
Applicant **Emanuel Shaoulian, M.D.**
Site Address **328-340 Old Newport Boulevard**
 Newport Harbor Medical Plaza Staff Approval
Legal Description **Parcel 1 of Lot Merger LM2014-05**

On **August 2, 2016**, the Community Development Director approved Staff Approval No. SA2016-006 authorizing modifications to the architectural design of a previously approved medical office building and finding said modifications to be minor and in substantial conformance with Use Permit No. UP2009-005 and Modification Permit No. MD2009-016. This approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** OG (Office General)
- **General Plan:** CO-G (General Commercial Office)

I. BACKGROUND

On March 9, 2010, the City Council adopted Resolution No. 2010-21 (Attachment No. CD2) approving a medical office project formerly known as the Old Newport Boulevard General Plan Amendment Project. The approval authorized a General Plan Amendment (GP2008-001) to increase the allowable floor area to land area ratio (FAR) for the project site from 0.5 FAR to 1.0 FAR. A FAR of 1.0 results in a maximum development of 25,725 square feet. Concurrent with the General Plan Amendment, the approval authorized the construction of an approximately 25,000-square-foot medical office building (Attachment No. CD3) with the following approvals:

- A modification permit (MD2009-016) to allow a subterranean parking area to encroach 3 feet into the 5-foot rear yard setback;
- An off-street parking credit commensurate with the number of on-street parking spaces available along the project frontage;

- A use permit (UP2009-005) to allow portions of the building to exceed the 32-foot base height limit; and
- A traffic study (TS2009-002) pursuant to the City's Traffic Phasing Ordinance analyzing traffic associated with a 25,725-square-foot medical office use.

Due to economic circumstances, the project was put on hold and extensions to the above-mentioned project approvals were granted until March 9, 2015.

On January 15, 2015, the Zoning Administrator adopted Resolution No. ZA2015-002 approving a lot merger (LM2014-004) combining the underlying four legal lots of the subject property into a single building site.

The project approvals were deemed exercised with the issuance of building permits on March 6, 2015, for demolition of the existing structures and rough grading of the proposed medical office building.

II. PROPOSED CHANGES

Due to changes in architectural trends, medical office needs, and to improve vehicular circulation within the parking structure, the applicant is proposing to modify the architectural design of the project (Attachment No. CD4). Modifications include:

- Changing the architectural style from a post-modern, deconstructivist style with angular building lines to a more contemporary curvilinear building design that is more responsive to the site and to the views available from the site.
- Redesigning parking garage from two separate levels to a design with three connected levels. The new garage design allows for a safer vehicular circulation both on and off site by allowing vehicles to access all interior parking spaces from within the structure. The previous design required vehicles to exit the structure and re-enter the second level through another driveway.
- Reducing number of vehicular driveways on Old Newport Boulevard from two to one.
- Increased height of primary entry tower element to 48 feet 8 inches (3-foot-10-inch increase above original design) and added a second tower element with a height of 37 feet 9 inches.
- Increased total landscape area provided on-site from 2,447 square feet to 3,546 square feet. Landscaping at the rear of the building adjacent to the alley has increased by approximately 560 square feet.

III. FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing, and waive the requirement for a new permit application. In this case, the Community Development Director has determined that the proposed architectural changes are in substantial conformance with the nature of the findings and conditions of the previous medical office approval.

Finding:

A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The project was originally approved under the previous Zoning Code and located within the Old Newport Boulevard Specific Plan (SP-9); Retail Service Commercial (RSC) Zoning District. The current Zoning Code designates the site Office General (OG). The proposed 25,000-square-foot medical office building continues to be a permitted land use identified in the previous SP-7/RSC and current OG Zoning Districts. The project also remains below the maximum 25,725-square-foot floor area limit (1.0 FAL) applicable to the site.
2. A total of 125 parking spaces are proposed for the medical office building, consistent with the required parking rate of one space per 200 square feet of gross floor area. Nine of the parking spaces are new on-street parking spaces that were created and eligible for an off-street parking credit consistent with the previous SP-9/RSC zoning standards and Condition No. 3 of the project approval.
3. The modified design complies with all applicable zoning standards of the previous SP9-RSC and current OG Zoning Districts, with the exception of the tower heights and subterranean rear yard encroachment. However, the modified design is in substantial conformance with Use Permit No. UP2009-005 that authorized portions of the building to exceed the 32-foot base height limit and Modification Permit No. MD2009-016 that authorized portions of the subterranean parking structure to encroach into the rear setback.

Finding:

- B. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The environmental impacts of the approved project were analyzed under the Mitigated Negative Declaration (MND) that was adopted for the project by the City Council on March 9, 2010. The changes to the plans do not involve features that were the basis for findings or exemption in the adopted MND in that intensity of the project has not changed. Although changes in architectural design and site plan are proposed, these changes are considered minor and when taken into account, the conclusions of the environmental analysis in the Adopted MND do not change.

Finding:

- C. Do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. The modified plan demonstrates the ability to comply with all required conditions of approval, and said conditions will continue to be required through project implementation.
2. Consistent with Condition No. 3, an off-street parking credit shall be granted equal to the number of on-street parking spaces provided along the Old Newport Boulevard frontage. The modified design provides parking for nine spaces, compared to four spaces under the original design, while providing adequate sight distance from the project driveway.
3. Consistent with Condition No. 11, the increased setback area at the rear of the building, including the five-foot rear alley setback, will be landscaped with a combination of groundcover, shrubs, and vertical plantings to enhance the aesthetics of alley elevation and minimize the visual bulk and mass of the structure. The modified design includes additional building setback area to the rear property line, resulting in 560 square feet of increased landscaping.
4. Consistent with Condition No. 16, trash will be located near the southeast corner of the site within a fully-enclosed trash enclosure to minimize noise and odor impacts to adjacent residents.

5. The original design included a single tower element that widened towards the top with an exterior finish that largely consisted of stucco and limited window openings. Due to the visual mass and bulk of the design, Condition No. 23 was imposed requiring that the portions of the stairwell and elevator enclosure that exceeded the 32-foot base height limit be redesigned architecturally to minimize the visual bulk, subject to the approval of the Director. The modified design now includes two tower elements for primary and secondary lobbies with varying heights that help reduce the mass into two separate architectural elements and consist primarily of glass finishes. The architectural design of the taller, primary tower includes an open-air design element. This design element maintains the prominence of the tower as a design feature, while further reducing the visual bulk of the tower.
6. The original design included a substantial number of lower and upper level windows facing the residential district across the alley at the rear. To minimize night lighting impacts, Condition No. 22 was added requiring an internal lighting system that would auto-dim after standard work hours. This condition will continue to be implemented; however, the modified design also eliminates the lower level office windows and only includes 7 upper level office windows, providing increased privacy and minimizing lighting impacts to the residents at the rear.

Finding:

- D. *Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The proposed building floor area remains at 25,000 square feet and no changes to proposed operation as a medical office use or associated vehicular trip generation would result.
2. Vehicular ingress and egress remains from Old Newport Boulevard, ensuring that the residential area across the alley remains protected from vehicular disturbances associated with the project.
3. The modified design maintains similar subterranean encroachments into the rear setback (3 feet 2 inches) to accommodate the necessary minimum parking and vehicular circulation requirements, but increases cumulative above ground setback area adjacent to alley that results in an increased rear landscape area of 562 square feet. Side setbacks increase from 8 inches on the north side and 2 feet 3 inches on the south side. The front setback of the project increases 2 feet, which also results in additional on-site landscaping along the project frontage.
4. Although the modified design now includes two architectural tower elements and roof lines that exceed the 32-foot base height limit, the overall design of

the building has been improved by reducing the visual mass of the previous one single tower element consisting of largely stucco material to a design that breaks up the mass into two narrower architectural elements that utilize predominately glass finishes to provide visual transparency and openness.

5. The project site maintains a relatively long frontage width of approximately 290 feet along Old Newport Boulevard. Similar to the original design, the modified design maintains upper floor step backs, but now includes a curvilinear design to minimize the mass of the building as viewed from the street. The towers remain for the purpose of identifying the building entries and serve as design elements that break up the long elevation of the project. These tower elements are consistent with General Plan Policy LU 5.4.2, which requires new developments to be designed to convey a unified and high-quality character in consideration of several principles, including clearly identifying the entry of the building through design elements.
6. The modified design allows for increased rear setback area adjacent to the alley and residential uses across the alley. In addition, the overall height of the building as measured from the average alley elevation along the alley elevation has been reduced to approximately 22 feet (approximately 8 feet lower than original design), further minimizing the visual mass and scale of the building as viewed from the alley and the residential neighborhood beyond.

IV. DETERMINATION

This staff approval has been reviewed and the determination has been made that the proposed changes to the architectural design of the previously approved medical office building are minor and in substantial conformance with Use Permit No. UP2009-005 and Modification Permit No. MD2009-016.

V. CONDITIONS

1. All applicable conditions of approval for Use Permit No. UP2009-005 and Modification Permit No. MD2009-016 shall remain in effect.
2. The development shall be in substantial conformance with the revised site plan, floor plans, roof plans, building elevations, and landscape plan found in Attachment No. CD 4.
3. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's staff approval of the Newport Harbor Medical Plaza including, but not limited to, Staff Approval No.

SA2016-006 (PA2016-065). 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.

APPEAL PERIOD: An appeal or call for review 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.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



Jaime Murillo, Senior Planner

jm/KB

Attachments: CD1 Vicinity Map
CD2 City Council Resolution No. 2010-21,
including Mitigation and Monitoring
Reporting Program, and Conditions of
Approval
CD3 March 9, 2010, Approved Plans
CD4 Modified Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2016-006
PA2016-065

328, 332, and 340 Old Newport Boulevard

Attachment No. CD 2

City Council Resolution No. 2010-21,
including Mitigation and Monitoring
Reporting Program, and Conditions of
Approval

RESOLUTION NO. 2010-21

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH ADOPTING A MITIGATED NEGATIVE DECLARATION, FINDING TRAFFIC STUDY NO. TS2009-002 IN COMPLIANCE WITH THE TRAFFIC PHASING ORDINANCE, APPROVING GENERAL PLAN AMENDMENT NO. GP2008-001 WITH A 1.0 FAR INTENSITY LIMIT, APPROVING USE PERMIT NO. UP2009-005, MODIFICATION PERMIT NO. MD2009-016 AND THE REQUESTED OFF-STREET PARKING CREDIT FOR A MEDICAL OFFICE PROJECT LOCATED AT 328, 332, AND 340 OLD NEWPORT BOULEVARD (PA2008-047)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael C Adams Associates, with respect to properties located at 328, 332, and 340 Old Newport Boulevard, and legally described as Lots 8, 9, 10, and 11 of Tract No. 1136 requesting approval of a General Plan Amendment (GPA) to increase the allowable floor area to land area ratio (FAR) for the project site from 0.5 FAR to 1.0 FAR. An FAR of 1.0 could result in 25,725 square feet of development. Concurrent with the requested General Plan Amendment, the applicant is proposing the construction of a 25,000-square-foot medical office building. The following approvals are requested or required in order to implement the project as proposed:
 - a. An amendment to the Land Use Element of the General Plan to increase the allowable FAR from 0.5 to 1.0 for the project site.
 - b. A modification permit to allow the proposed subterranean parking area to encroach 3 feet into the 5-foot rear yard setback.
 - c. A seven space off-street parking credit commensurate with the number of on-street parking spaces available along the project frontage.
 - d. A use permit to allow an elevator and stairwell enclosure to exceed the 32-foot base height limit.
 - e. A traffic study pursuant to the City's Traffic Phasing Ordinance.
2. The subject property is located within the Old Newport Boulevard Specific Plan (SP-9); Retail Service Commercial (RSC) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
3. The subject property is not located within the coastal zone.
4. A public hearing was held by the Planning Commission on February 4, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of

time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this meeting.

5. At the February 4, 2010, Planning Commission hearing, the Planning Commission voted 6-1 recommending that the City Council approve the project as proposed, subject to findings and conditions of approval.
6. A public hearing was held by the City Council on March 9, 2010, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the City Council at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. An Initial Study and Mitigated Negative Declaration have been prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3.
2. The draft Mitigated Negative Declaration was circulated for a 30-day comment period beginning on December 14, 2009 and ending on January 12, 2010. The contents of the environmental document and comments on the document were considered by the City Council in its review of the proposed project.
3. On the basis of the entire environmental review record, the proposed project, with mitigation measures, will have a less than significant impact upon the environment and there are no known substantial adverse affects on human beings that would be caused. Additionally, there are no long-term environmental goals that would be compromised by the project, nor cumulative impacts anticipated in connection with the project. The mitigation measures identified and incorporated in the Mitigation Monitoring and Reporting Program are feasible and will reduce the potential environmental impacts to a less than significant level.
4. The Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program attached as Exhibit B is hereby adopted. The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Department, City Hall, 3300 Newport Boulevard, Newport Beach, California.
5. The City Council finds that judicial challenges to the City's CEQA determinations and approvals of land use projects are costly and time consuming. In addition, project opponents often seek an award of attorneys' fees in such challenges. As project applicants are the primary beneficiaries of such approvals, it is appropriate that such applicants should bear the expense of defending against any such judicial challenge, and bear the responsibility for any costs, attorneys' fees, and damages which may be awarded to a successful challenger.

SECTION 3. REQUIRED FINDINGS.

1. The project site is located within the Old Newport Boulevard commercial corridor. The Land Use Element of the General Plan designates the site General Commercial Office (CO-G), which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. The proposed medical office building would be consistent with this designation.
2. General Plan Policy LU 3.2 encourages the enhancement of existing neighborhoods, districts, and corridors, by allowing for re-use and infill with uses that are complementary in type, form, scale, and character. The policy states that changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.

The proposed GPA for increased intensity is consistent with General Plan Policy LU 3.2 as follows:

- a. The General Plan recognizes the Old Newport Boulevard corridor as an area that has experienced reduced economic vitality.
 - b. The increased intensity would provide an economic stimulus needed to accommodate the redevelopment of three separate, nonconforming and underperforming properties into one medical office building.
 - c. As stated in the General Plan, Newport Beach residents desire high quality development and redevelopment of underperforming, nonconforming properties.
 - d. Redevelopment of the subject property may help revitalize the corridor and encourage redevelopment of other underperforming properties within the Old Newport Boulevard corridor.
 - e. The project site is served by existing infrastructure and public services. The proposed increase in intensity will not necessitate any expansion of existing infrastructure.
 - f. The traffic impact analysis that was prepared for the project found that the addition of project-related traffic would not have a significant impact at any of the study intersections.
3. Charter Section 423 requires that all proposed General Plan Amendments be reviewed to determine if the square footage (for non-residential projects), peak hour

vehicle trip, or dwelling units thresholds would be exceeded as the means to determine whether a vote by the electorate would be required to approve the General Plan Amendment. Pursuant to Council Policy A-18, voter approval is not required as the proposed General Plan Amendment represents an increase of 12,862.5 square feet and an increase of 38.59 a.m. and 51.45 p.m. peak hour trips. Additionally, no prior amendments have been approved within Statistical Area H1 and, therefore, the project and prior amendments do not cumulatively exceed Charter Section 423 thresholds as to require a vote of the electorate

4. Municipal Code Chapter 15.40 (Traffic Phasing Ordinance, or TPO) requires that a traffic study be prepared and findings be made before building permits may be approved for project's that will generate in excess of 300 average daily trips (ADT). For the purposes of preparing the traffic analysis for this project, 25,725 square feet of medical office use was conservatively considered as the project size and forecast to generate 703 additional trips per day, including 35 additional a.m. peak hour trips and 63 p.m. peak hour trips. Pursuant to Section 15.04.030.A, the project shall not be approved unless certain findings can be made. The following findings and facts in support of such findings are set forth:

Finding:

- A. *That a traffic study for the project has been prepared in compliance with this chapter and Appendix A.*

Facts in Support of Finding:

- A-1. A traffic study, entitled "City of Newport Beach, Old Newport Boulevard Sub-Area Project Traffic Impact Analysis (Revised) dated September 30, 2009" was prepared by Kunzman Associates under the supervision of the City Traffic Engineer pursuant to the TPO and its implementing guidelines.
- A-2. Pursuant to the TPO, only primary intersections in the City of Newport Beach are required to be analyzed; however, for the purposes of assessing project-related impacts pursuant to CEQA, the traffic analysis also analyzed intersections in the City of Costa Mesa and included a cumulative impact analysis. Based on consultation between the Cities of Newport Beach and Costa Mesa staff, a total of 17 intersections were evaluated.

Finding:

- B. *That based on the eight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) can be made:*

15.40.030.B.1 Construction of the project will be completed within 60 months of project approval; and

15.40.030.B.1(a) The project will neither cause nor make an unsatisfactory level of traffic service at any impacted intersection.

Facts in Support of Finding:

- B-1. Construction of the project is anticipated to start in 2010 and completed in 2012. If the project is not completed within sixty (60) months of this approval, preparation of a new traffic study will be required.
- B-2. The traffic study indicates that the project will increase traffic on three of the ten study intersections in the City of Newport Beach by one percent (1%) or more during peak hour periods one year after the completion of the project.
- B-3. Utilizing the Intersection Capacity Utilization (ICU) analysis specified by the Traffic Phasing Ordinance, the traffic study determined that the three primary intersections identified will continue to operate at satisfactory levels of service as defined by the Traffic Phasing Ordinance, and no mitigation is required.
- B-4. Based on the weight of the evidence in the administrative record, including the traffic study, the implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City of Newport Beach.

Finding:

- C. *That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.*

Facts in Support of Finding:

- C-1. Since implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City of Newport Beach, no improvements or mitigations are necessary.
5. The proposed project encroaches up to 3 feet into the required 5-foot rear yard (alley) setback with portions of the subterranean parking levels. Although the encroachments are below grade, the Zoning Code does not include any exceptions for below-grade improvements and a modification permit is required. In accordance with Section 20.82.060 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The granting of the application 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:

- A-1. The purpose and intent of the off-site parking regulations of the Zoning Code is to ensure sufficient parking is provided for new and expanded land uses, and to ensure efficiency, protect the public safety, and, where appropriate, insulate land uses from adverse impacts. Also, one of the Old Newport Boulevard Specific Plan goals is to minimize traffic and parking impacts on adjacent single-family residential areas by discouraging ingress and egress from the alley accessible from Holmwood Drive.
- A-2. Strict application of the parking requirements requires the proposed medical office building to provide a total of 125 parking spaces. A practical difficulty exists in that the project site is relatively shallow (approximately 100 feet deep between Old Newport Boulevard and the rear alley), which creates design constraints for providing adequate parking circulation and requires the use of the entire lot area to meet the on-site parking requirements. Given the constraints of the shallow lot, only one-way vehicular circulation can be accommodated on each level and ramps necessary to access an additional subterranean parking level would not be achievable.
- A-3. A practical difficulty also exists in that the rear property line curves slightly, necessitating the 3-foot encroachment only within the middle portion of the site. If the site would have been rectangular in shape, the 3-foot encroachment would not be necessary.
- A-4. Therefore, the required number of parking spaces cannot be accommodated on-site without the minor below-grade encroachments, unless an alternative parking layout is designed that provides an additional parking level accessible from the alley, which would be inconsistent with the purpose and intent of the Specific Plan.

Finding:

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

Facts in Support of Finding:

- B-1. The 3-foot encroachment into the rear 5-foot setback occurs entirely below grade and will not be visible from the alley.
- B-2. At grade, only the two office levels of the building will be visible and will maintain a setback greater than the required 5 feet for a majority of the alley frontage. A condition of approval has been included requiring the above-grade rear setback

area to be entirely landscaped with a combination of groundcover, shrubs, and vertical plantings to enhance the aesthetics of the alley elevation and to minimize the visual bulk and mass of the structure.

Finding:

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

Facts in Support of Finding:

- D-1. Granting the modification for the subterranean encroachments allows the project to provide the required on-site parking, while limiting vehicular ingress and egress to Old Newport Boulevard and ensuring that the residential area across the alley is protected from vehicular disturbances associated with the project.
- D-2. The encroachments occur entirely below grade and vehicular maneuverability through the alley will not be impacted. At grade, the rear 5-foot setback will consist of landscaping and will not impact vehicle maneuverability through the 20-foot-wide alley.
6. The project proposes a total of 125 parking spaces, 7 of which are located on-street. Pursuant to Section 20.46.040.L of the Old Newport Boulevard Specific Plan, developments which maintain a 50-foot (full height curb) separation between driveway approaches on Old Newport Boulevard may be granted an off-street parking credit equal to the number of on-street parking spaces available along that frontage. The project as proposed maintains a separation greater than 200 feet between driveway approaches; however, the City's Traffic Engineer has identified a sight distance hazard associated with 3 of the proposed 7 on-street parking spaces. The remaining 4 spaces do not pose a traffic hazard and a 4 space off-street parking credit is appropriate in this case for the following reasons:
- a. The project accommodates 4 on-street parking spaces along the project frontage.
 - b. The parking spaces are so located to be useful in connection with the proposed use.
 - c. Given the land-use mix in the area, use of the 4 parking spaces will not negatively impact parking for visitors to the area (i.e. on-street parking is not used for beach access or shopping).
 - d. The parking credit allows for lot consolidation and unified site design.

7. The project is located in the 32/50-foot height limitation zone that permits buildings and structures to exceed the 32-foot height limit up to a maximum of 50 feet through the approval of a use permit. Overall, the building design conforms to the natural topography of the site and includes step backs at each level while maintaining the 32-foot height limit; however, in order to provide an entry lobby clearly visible and accessible from the Old Newport Boulevard frontage, an elevator and stairwell enclosure is proposed to be located at the northwest corner of the site and will exceed the base height limit. The elevator and stairwell enclosure would be approximately 600 square feet in area and measure 44 feet 10 inches in height. In accordance with Section 20.65.055 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The increased building height would result in more public visual open space and views than is required by the basic height limit in any zone. Particular attention shall be given to the location of the structure on the lot, the percentage of ground cover, and the treatment of all setback and open areas.*

Facts in Support of Finding:

- A-1. The project architect has designed an alternative plan that fully complies with the height limit and achieves the same floor area as the proposed design; however, in order to comply with the 32-foot height limit and still provide a second means of egress from the upper office levels to the lower parking levels, the elevator and stairwell would have to be relocated to the northeastern corner of the project site where the natural grade elevations are higher. Also, the relocation of the elevator and stairwell to the rear of the building displaces office floor area and requires enlargement of the footprint of the 1st office level to replace the displaced floor area (reducing above-grade setback at alley). Finally, it places the elevator and stairwell closer to the adjacent residential area.
- A-2. In comparing the proposed plan with the alternative plan, there is a difference in the above-grade building setback and landscaping planting area provided at the rear of the project adjacent to the alley. With the proposed plan, an above-grade building setback ranging from 5 feet to 16 feet is provided with an 877-square-foot landscape planting area. This increased setback and landscaping significantly enhances the aesthetics of the project as viewed from the alley frontage and adjacent residential uses (public visual open space). In the alternative plan, the above-grade building setback is reduced and the area of landscaping that can be accommodated is reduced to 344 square feet (a 40-percent reduction).

Finding:

- B. The increased building height would result in a more desirable architectural treatment of the building and a stronger and more appealing visual character of the area than is required by the basic height limit in any zone.*

Facts in Support of Finding:

- B-1. The proposed design allows for an entry lobby clearly visible and accessible from the Old Newport Boulevard frontage. Architecturally, this enclosure also serves as a design element that breaks up the long elevation of the project frontage and creates visual interest.
- B-2. The project architect has designed an alternative plan that fully complies with the height limit and achieves the same floor area as the proposed design; however, to provide access from the lower parking levels to the upper office levels, the subject elevator and stairwell would have to be relocated to the northeastern corner of the project site where the natural grade elevations are higher.
- B-3. The result of the alternative design would be a less desirable architectural treatment of the building in that the building's primary entry would be eliminated from Old Newport Boulevard and the building elevation visible from Old Newport Boulevard would be heavily dominated by the parking structure. Safe pedestrian access from the Old Newport Boulevard street frontage would be lost as patients parking on the street would have to walk through the driveway entries and through the parking structure to access the building lobbies. This design would also be inconsistent with General Plan Policy LU 5.4.1 which requires readily observable site access, entrance drives, and building entries to minimize conflicts between service vehicles, private automobiles, and pedestrians. It would also be inconsistent with Policy LU 5.4.2 which requires new developments to be designed to convey a unified and high-quality character in consideration of several principles, including clearly identifying the entry of the building through design elements.

Finding:

- C. The increased building height would not result in undesirable or abrupt scale relationships being created between the structure and existing developments or public spaces. Particular attention shall be given to the total bulk of the structure including both horizontal and vertical dimensions.*

Facts in Support of Finding:

- C-1. The project site maintains a relatively long frontage width of approximately 290 feet along Old Newport Boulevard. To minimize the massing and scale of the

building as viewed from Old Newport Boulevard, the proposed design includes step backs at each of the office levels following the natural topography of the site.

- C-2. As viewed from the alley frontage, the increased height of the elevator and stairwell enclosure will not be visible from the alley or residences to the east as the overall elevation to the top of the enclosure (101.33 feet) would remain lower than the elevation of the portion of the building facing the alley (103.00 feet).
- C-3. As viewed from the Old Newport Boulevard frontage, the increased height of the elevator and stairwell enclosure will be clearly noticeable as it is located immediately adjacent to the front property line and will measure approximately 40 feet in width, which is approximately 14-percent of the frontage width. However, given the fact that the upper office level adjacent to the alley is higher in overall elevation, the elevator and stairwell enclosure would not result in an abrupt scale relationship. Also, providing an entry lobby clearly visible and accessible from the Old Newport Boulevard frontage is desirable and encouraged by the General Plan.

Finding:

- D. The structure shall have no more floor area than could have been achieved without the use permit.*

Facts in Support of Finding:

- D-1. The proposed structures will have no more floor area than could have been achieved without requesting the increased height.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council of the City of Newport Beach does hereby find, on the basis of the whole record, that there is no substantial evidence that the project will have a significant effect on the environment and that the Mitigated Negative Declaration reflects the City Council's independent judgment and analysis. The City Council hereby adopts Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program attached as Exhibit "A". The document and all material, which constitute the record upon which this decision was based, are on file with the Planning Department, City Hall, 3300 Newport Boulevard, Newport Beach, California.
2. The City Council of the City of Newport Beach does hereby approve General Plan Amendment No. GP2008-001. Table LU2 and Figure LU9 of the Land Use Element of the General Plan shall be amended as provided in Exhibit "B".

3. The City Council of the City of Newport Beach does hereby find that the Project complies with the Traffic Phasing Ordinance, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2009-002.
4. The City Council of the City of Newport Beach does hereby approve Use Permit No. UP2009-005, Modification Permit No. MD2009-016 and the requested off-street parking credit, subject to the conditions set forth in Exhibit "C".
5. This resolution shall take effect immediately upon adoption.
6. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for increasing the floor area ratio for future developments.
7. The City Council of the City of Newport Beach hereby directs the City Clerk to mail notice of this decision to the applicant and appellant within five working days of the date of this decision.

Passed and adopted by the City Council of Newport Beach at a regular meeting held on the March 9, 2010, by the following vote to wit:

AYES, COUNCIL MEMBERS Selich, Rosansky, Henn, Gardner, Daigle, Mayor Curry

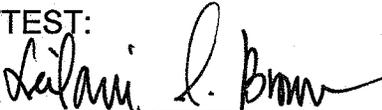
NOES, COUNCIL MEMBERS Webb

ABSENT COUNCIL MEMBERS None



MAYOR

ATTEST:



CITY CLERK



EXHIBIT "A"**Mitigation and Monitoring Reporting Program**

	Method of Verification	Timing	Responsible Party	Verification Date
Aesthetics				
MM V.1: The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Planning Director, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Planning Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.	Plan check and field inspection.	Prior to the issuance of permits and after construction.	Planning Dept.	
MM V.2: Prior to the issuance of building permits, the applicant shall prepare a photometric study in conjunction with a final lighting plan for approval by the Planning Department.	Plan check.	Prior to the issuance of permits.	Planning Dept.	
MM V.3: Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures and light standards shall not exceed 20 feet in height.	Plan check.	Prior to the issuance of permits.	Planning Dept.	
Air Quality				
MM AQ.1: The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts: Dust Control <ul style="list-style-type: none"> - Water all active construction areas as needed. - Cover all haul trucks or maintain at least two feet of freeboard. - Pave or apply water four times daily to all unpaved parking or staging areas. - Sweep or wash any site access points within two hours of any visible dirt deposition on any public roadway. - Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material. - Suspend all operations on any unpaved surface if winds exceed 25 mph. Emissions <ul style="list-style-type: none"> - Require 90-day low-NOx tune-ups for off road equipment. - Limit allowable idling to 5 minutes for trucks and heavy equipment. - The construction contractor shall utilize coatings and solvents with a VOC content lower than required under SCAQMD Rule 1113. - The construction contractor shall utilize materials that do not require painting, as feasible. Off-Site Impacts <ul style="list-style-type: none"> - Encourage car pooling for construction workers. - Limit lane closures to off-peak travel periods. - Park construction vehicles off traveled roadways. - Wet down or cover dirt hauled off-site as needed to 	Field inspections. Contractor to certify.	During construction.	Building Dept. and Contractor.	

	Method of Verification	Timing	Responsible Party	Verification Date
<p>reduce dust.</p> <ul style="list-style-type: none"> - Sweep access points daily. - Encourage receipt of materials during non-peak traffic hours. - Sandbag construction sites for erosion control. <p>Excavation</p> <ul style="list-style-type: none"> - The number and type of equipment for dirt removal will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded. - Maintain and utilize a continuous water application system during earth movement to achieve a minimum 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer. 				
<p>MM AQ.2: Energy Conservation</p> <ul style="list-style-type: none"> - During demolition, to the extent feasible, recyclable materials shall be separated from materials that cannot be recycled. - Incorporate energy and water saving materials, features and practices as feasible; maximize use of low-energy lighting (LED, fluorescent) where feasible; require acquisition of new appliances and equipment to meet Energy Star certification where appropriate. 	Plan check and field inspections (recycling).	Prior to issuance of permits and during construction. Contractor to certify.	Planning Dept. and Contractor.	
Cultural Resources				
<p>MM CR.1: Prior to issuance of a grading permit, the applicant shall provide written evidence to the Planning Director that a qualified archaeologist (with training in the recognition of paleontological resources, or a separate paleontologist) has been retained to observe grading activities and conduct salvage excavation of archeological resources as necessary. The archeologist shall be present at the pre-grading conference, shall establish procedures for archeological resources surveillance, and shall establish, in cooperation with the City, procedures for temporarily halting or redirecting work to permit the sampling, identification and evaluation of the artifacts as appropriate. If archeological and/or paleontological features are discovered, the archeologist shall report such findings to the Planning Department. If the archeological resources are found to be significant, the archeological observer shall determine appropriate actions, in cooperation with the City, for exploration and/or salvage. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the Planning Director.</p>	Plan check and field inspections. Contractor to certify.	Prior to issuance of permits and during construction.	Planning Dept. and Contractor.	
<p>MM CR.2: In accordance with the Public Resources Code §5097.94, if human remains are found, the Orange County Coroner must be notified within 24 hours of the discovery. If the Coroner determines that the remains are not recent, the Coroner will notify the Native American Heritage Commission in Sacramento to determine the most likely descendent for the area. The designated Native American representative then determines in consultation with the City the disposition of the human remains.</p>	Field inspections.	During construction.	Building Dept. and Contractor.	
Hazards				
<p>MM HZ.1: A survey for hazardous materials/wastes shall be undertaken prior to demolition activities. In the event that hazardous materials are determined to be potentially present, a plan for safe storage and disposal shall be</p>	Plan check.	Prior to issuance of permits.	Building Dept.	

	Method of Verification	Timing	Responsible Party	Verification Date
developed. The Applicant shall provide evidence that ensures that any identified hazardous materials/wastes are handled and disposed of in the manner specified by the State of California Hazardous Substances Control Law (Health and Safety Code Division 20, Chapter 6.5), standards established by the California Department of Health Services and Office of Statewide Planning and Development, and according to the requirements of the California Administrative Code, Title 30.				
MM HZ.2: Prior to the issuance of any building permits for new construction, the Applicant shall submit documentation to the City's Fire Department for review and approval to ensure that either there are no hazardous materials/wastes on the site, or that any identified hazardous materials/wastes are stored, handled and disposed of in compliance with state and federal guidelines, and as directed by the City's Fire Department.	Plan check	Prior to issuance of permits.	Fire Dept.	
MM HZ.3: The Applicant shall ensure that grading and building plans include the following measures and that the measures shall be followed by the construction contractor and crew: 1. The storage of hazardous materials, chemicals, fuels, and oils and fueling of construction equipment shall be a minimum of 45 meters (150 feet) from any drainage, water supply, or other water feature. 2. Provide secondary containment and/or proper covers or lids for material storage, trash bins, and outdoor processing and work areas (Source NPDES Santa Ana Regional Water Quality Control Board [SARWQCB] 4th Term Permit R8-2009-0030). 3. Whenever possible, all of a product shall be used up before disposal of its container. 4. If surplus product must be disposed of, methods for disposal recommended by the manufacturer or the City and the state shall be followed. 5. Spills shall be contained and cleaned up immediately after discovery. Manufacturer's methods for spill cleanup of a material shall be followed as described on the Material Safety Data Sheets (MSDS) for each product. Any hazardous spills that enter the storm drains (also known as MS 4s) shall notify the City and the SARWQCB.	Plan check	Prior to issuance of permits.	Planning Dept.	
Hydrology				
MM HY.1: Prior to grading and building permit issuance, the applicant shall submit a Water Quality Management Plan ("WQMP") to satisfy the City's requirements. This plan will prescribe appropriate structural and non-structural Best Management Practices ("BMPs") to address pollutants generated by the project to ensure that no violations of water quality standards will occur.	Plan check	Prior to issuance of permits.	Building Dept.	
Noise				
MM N.1: As feasible, pile driving shall utilize sonic pile driving or caisson drilling in place of impact pile driving as appropriate for site conditions; sonic pile driving shall only be used after review by acoustical and structural engineers to ensure that adjacent buildings would not be adversely affected by steady state excitation resulting in resonance response or other adverse geologic issues. The pile driving rig shall access the site from Old Newport and not the alley.	Field inspections. Contractor to certify.	During construction.	Building Dept. and Contractor.	

	Method of Verification	Timing	Responsible Party	Verification Date
MM N.2: All construction equipment shall be equipped with residential-grade mufflers and other suitable noise attenuation devices.	Field inspections. Contractor to certify.	Prior to start of excavation/grading.	Contractor.	
MM N.3: A temporary six-foot solid wall (e.g., wood or other noise baffling material) shall be constructed on the project site such that the line-of-sight is blocked from construction activity to the residential uses along the alley. Additionally noise shrouds and/or noise blankets shall be used to screen and reduce noise from pile driving activity at the residences along the alley.	Field inspections. Contractor to certify.	Prior to start of excavation/grading.	Building Dept. and Contractor.	
MM N.4: Prior to the issuance of the demolition permit, the project applicant shall prepare a construction staging plan that reflects the locations of the construction and staging areas on the subject property, which shall be located as far away from the nearby residential development as possible to reduce temporary noise impacts.	Field inspections	Prior to demolition permit.	Public Works Dept.	
MM N.5: All residential units and site occupants located within 300 feet of the construction site shall be sent a notice regarding the construction schedule of the proposed project. A sign, legible at a distance of 50 feet shall also be posted at the construction site. All notices and signs shall indicate the dates and duration of construction activities, as well as provide a telephone number where residents can inquire about the construction process and register complaints.	Field inspections. Contractor to certify.	Prior to start of excavation/grading.	Planning Dept. and Contractor.	
MM N.6: The construction contractor shall establish a "noise disturbance coordinator". The disturbance coordinator shall be responsible for responding to any local complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., starting too early, bad muffler, etc.) and would be required to implement reasonable measures such that the complaint is resolved. All notices that are sent to residential units within 300 feet of the construction site and all signs posted at the construction site shall list the telephone number for the disturbance coordinator.	Field inspections. Contractor to certify.	Prior to start of excavation/grading.	Planning Dept. and Contractor.	
Public Services (Fire)				
MM F.1: The project shall provide water and access to meet fire department requirements; the building shall be equipped with a sprinkler system that complies with Fire Department specifications (if any).	Plan check.	Issuance of building permit	Fire Dept.	
Traffic -- Safety				
MM T.1: Sight distance at the project access points shall be reviewed with respect to City of Newport Beach standards in conjunction with the preparation of final grading, landscaping, and street improvement plans.	Plan check.	Issuance of building permit	Public Works Dept.	
MM T.2: On-site traffic signing and striping shall be implemented in conjunction with detailed construction plans for the project and as approved by the City of Newport Beach.	Plan check.	Issuance of building permit	Public Works Dept.	
Utilities -- Water and Wastewater				
MM W.1: Prior to demolition, the applicant shall prepare a water system and sanitary sewer system demand study to identify potential impacts to the existing City or Sanitation District's ability to provide adequate water and sewer service and sewage collection and treatment. The study will identify the need to upgrade any of the existing facilities currently serving the site.	Plan check.	Prior to start of construction	Public Works Dept.	

	Method of Verification	Timing	Responsible Party	Verification Date
MM W.2: Prior to the issuance of grading or building permits, the Applicant shall coordinate with utility and service organizations regarding any construction activities to ensure existing facilities are protected and any necessary expansion or relocation of facilities are planned and scheduled in consultation with the appropriate public agencies.	Plan check.	Prior to the issuance of permits.	Public Works Dept.	
MM W.3: The project shall incorporate water conservation measures including low flow fixtures, water-efficient equipment, drought tolerant landscaping, rain capture and storage and other features as feasible to reduce water consumption.	Plan check.	Prior to the issuance of permits.	Planning Dept.	

EXHIBIT "B"

Land Use Element Changes

Table LU2 Anomaly Locations

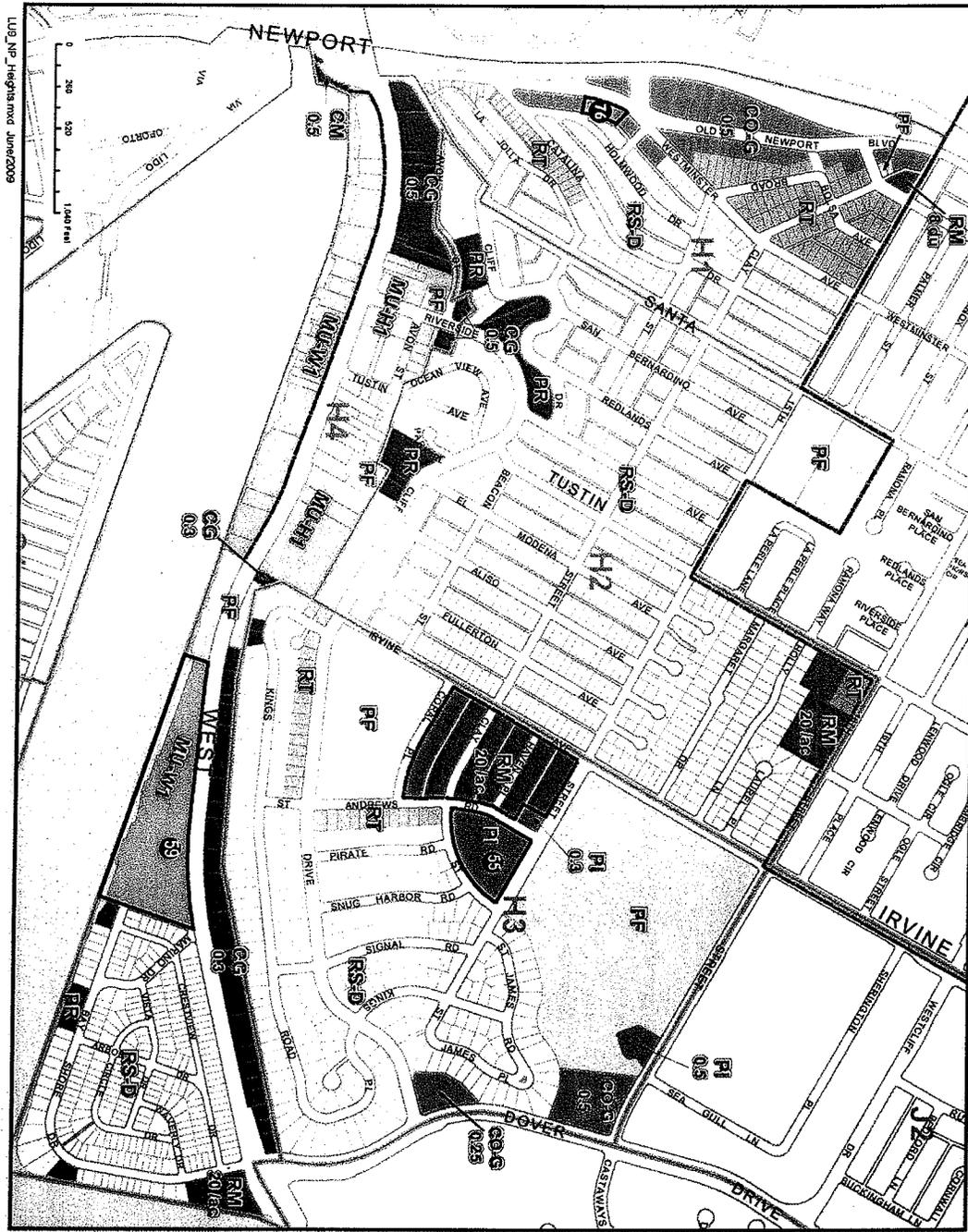
Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
1	L4	MU-H2	460,095	471 Hotel Rooms (not included in total square footage)	
2	L4	MU-H2	1,060,146		
3	L4	CO-G	734,641		
4	L4	MU-H2	250,176		
5	L4	MU-H2	32,500		
6	L4	MU-H2	34,500		
7	L4	MU-H2	81,372		
8	L4	MU-H2	442,775		
9	L4	CG	120,000	164 Hotel Rooms (included in total square footage)	
10	L4	MU-H2	31,362	349 Hotel Rooms (not included in total square footage)	
11	L4	CG	11,950		
12	L4	MU-H2	457,880		
13	L4	CO-G	288,264		
14	L4	CO-G/MU-H2	860,884		
15	L4	MU-H2	228,214		
16	L4	CO-G	344,231		
17	L4	MU-H2	33,292	304 Hotel Rooms (not included in total square footage)	
18	L4	CG	225,280		
19	L4	CG	228,530		
21	J6	CO-G	687,000		Office: 660,000 sf Retail: 27,000 sf
		CV		300 Hotel Rooms	
22	J6	CO-G	70,000		Restaurant: 8000 sf, or Office: 70,000 sf
23	K2	PR	15,000		
24	L3	IG	89,624		
25	L3	PI	84,585		
26	L3	IG	33,940		
27	L3	IG	86,000		
28	L3	IG	110,600		
29	L3	CG	47,500		
30	M6	CG	54,000		
31	L2	PR	75,000		
32	L2	PI	34,000		

Table LU2 Anomaly Locations

Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
33	M3	PI	163,680		Administrative Office and Support Facilities: 30,000 sf Community Mausoleum and Garden Crypts: 121,680 sf Family Mausoleums: 12,000 sf
34	L1	CO-R	484,348		
35	L1	CO-R	199,095		
36	L1	CO-R	227,797		
37	L1	CO-R	131,201	2,050 Theater Seats (not included in total square footage)	
38	L1	CO-M	443,627		
39	L1	MU-H3	408,084		
40	L1	MU-H3	1,426,634	425 Hotel Rooms (included in total Square Footage)	
41	L1	CO-R	327,671		
42	L1	CO-R	286,166		
43	L1	CV		611 Hotel Rooms	
44	L1	CR	1,619,525	1,700 Theater Seats (not included in total square footage)	
45	L1	CO-G	162,364		
46	L1	MU-H3/PR	3,725	24 Tennis Courts	Residential permitted in accordance with MU-H3.
47	L1	CG	105,000		
48	L1	MU-H3	337,261		
49	L1	PI	45,208		
50	L1	CG	25,000		
51	K1	PR	20,000		
52	K1	CV		479 Hotel Rooms	
53	K1	PR	567,500		See Settlement Agreement
54	J1	CM	2,000		
55	H3	PI	119,440		
56	A3	PI	1,343,238	990,349 sf Upper Campus 577,889 sf Lower Campus	In no event shall the total combined gross floor area of both campuses exceed the development limit of 1,343,238 sq. ft.
57	Intentionally Blank				
58	J5	PR	20,000		
59	H4	MU-W1	487,402	157 Hotel Rooms and 144 Dwelling Units (included in total square footage)	

Table LU2 Anomaly Locations

Anomaly Number	Statistical Area	Land Use Designation	Development Limit (sf)	Development Limit (Other)	Additional Information
60	N	CV	2,660,000	2,150 Hotel Rooms (included in total square footage)	
61	N	CV	125,000		
62	L2	CG	2,300		
63	G1	CN	66,000		
64	M3	CN	74,000		
65	M5	CN	80,000		
66	J2	CN	138,500		
67	D2	PI	20,000		
68	L3	PI	71,150		
69	K2	CN	75,000		
70	D2	RM-D			Parking Structure for Bay Island (No Residential Units)
71	L1	CO-G	11,630		
72	L1	CO-G	8,000		
73	A3	CO-M	350,000		
74	L1	PR	35,000		
75	L1	PF			City Hall, and the administrative offices of the City of Newport Beach, and related parking, pursuant to Section 425 of the City Charter.
76	H1	CO-G		0.5 FAR	1.0 FAR permitted, provided all four legal lots are consolidated into one parcel to provide unified site design



**CITY OF NEWPORT BEACH
GENERAL PLAN
Figure LU9
STATISTICAL AREAS
H1 - H4**

Residential Neighborhoods

- Single-Unit Residential Detached
- Single-Unit Residential Attached
- Two-Unit Residential
- Multiple-Unit Residential

Commercial Districts and Corridors

- Neighborhood Commercial
- Center Commercial
- Visitor Serving Commercial
- Community and Marine
- Regional Commercial

Commercial Office Districts

- General Commercial Office
- Medical Commercial Office
- Regional Commercial Office

Industrial Districts

- Industrial

Airport Supporting Districts

- Airport Office and Supporting Uses

Mixed-Use Districts

- Mixed-Use Vertical
- Mixed-Use Horizontal
- Mixed-Use Water Related

Public, Semi-Public and Institutional

- Public Facilities
- Private Institutions
- Parks and Recreation
- Open Space

Islands and Submerged Lands

- City of Newport Beach
- County
- State
- Federal

Land Use Designator

- H1

Refer to acronym table

EXHIBIT "C"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

PLANNING

1. *The development shall be in substantial conformance with the approved site plan, floor plans, roof plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)*
2. *Use Permit No. UP2009-005 and Modification Permit No. MD2009-016 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.93.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
3. *An off-street parking credit shall be granted equal to the number of on-street parking spaces provided along the Old Newport Boulevard frontage. The on-street parking spaces shall be subject to the review and approval of the Public Works Department.*
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. This approval was based on the particulars of the individual case and does not in and of itself or in combination with other approvals in the vicinity or Citywide constitute a precedent for future approvals or decisions.
7. This Use Permit and Modification Permit may be modified or revoked by the City Council or Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or Modification Permit or the processing of new permits.
9. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation

systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

- 10. *Landscaping shall comply with all applicable landscaping standards contained within Section 20.46.040 of the Zoning Code. No deviations are permitted.*
- 11. *The five-foot rear yard (alley) setback shall be landscaped with a combination of groundcover, shrubs, and vertical plantings to enhance the aesthetics of the alley elevation and to minimize the visual bulk and mass of the structure. The final landscape plan shall be subject to the review and approval by the Public Works Department to ensure the landscaping will not negatively impact vehicular circulation through the alley right-of-way.*
- 12. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

- 13. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Department.
- 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. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
- 16. *All trash shall be stored within the building or within dumpsters stored in a trash enclosure that is recessed into the building. Also, to minimize noise and odor impacts to the adjacent resident, the enclosure shall be located at the southeast corner of the site and screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.*

17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
18. 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.
19. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
20. *Deliveries and refuse collection for the facility shall be prohibited between the hours of 7:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Planning Director, and may require an amendment to this Modification Permit and Use Permit.*
21. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
22. *The final project design shall include an internal lighting system that would auto-dim after standard work hours, leaving small task lighting for janitorial and service activities and to light areas where employees may be working late.*
23. *The portion of the elevator and stairwell enclosure that exceeds the 32-foot base height limit shall be redesigned in a manner that minimizes the bulk of the architectural appurtenance. The final design shall be subject to the approval of the Planning Director.*
24. *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 Old Newport Boulevard General Plan Amendment Project including, but not limited to, the approval of General Plan Amendment No. GP2008-001, Modification Permit No. 2009-016, Traffic Study No. TS2009-002 & requested Off-Street Parking Credit; and/or the City's related California Environmental Quality Act determinations, the certification of the Mitigated Negative Declaration and/or the adoption of a Mitigation Monitoring Program for the project. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs,*

attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

25. Elevators shall be gurney-accommodating in accordance with Article 30 of the California Building Code (2007 edition).
26. *Fire sprinklers shall be installed in accordance with NFPA 13, 2002 Edition.*
27. *A Fire Department connection for the fire sprinkler system shall be provided within 150 feet and shall be located on the same side of the street as a public hydrant.*
28. *Class I standpipe connections are required in all parking levels in addition to the fire sprinklers.*
29. *Drain for the fire sprinkler system located adjacent to system riser is required to empty into sewer system. This connection shall be shown on plumbing plans.*
30. *Fire sprinkler monitoring system is required. If an "I" occupancy is proposed, a manual and an automatic fire alarm system is required.*

Building Department Conditions

31. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
32. *An application for Alternate Methods and Materials shall be filed with, and approved by, the Building Department to allow the categorization of parking for employees and patients for the purpose of calculating disabled parking requirements. In addition, a covenant shall be recorded on the property reserving the eight parking spaces on the lower parking level and all the spaces on the upper parking level for employee parking only. The covenant shall be prepared by the applicant's legal counsel for approval by the City Attorney if deemed consistent with the intent of this condition. The applicant shall provide proof of recordation of the covenant, subject to the Planning Director's approval.*
33. Prior to issuance of grading permits, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Department and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.

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

Public Works Conditions

35. Traffic control and truck route plans shall be reviewed and approved by the Public Works Department before their implementation. Large construction vehicles shall not be permitted to travel narrow streets as determined by the Public Works Department. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagman.
36. *The project shall include appropriate signage and striping to emphasize the vehicular circulation. Proposed signage shall be per the California MUTCD and the proposed striping shall be per the most recent Caltrans Standard Plans.*
37. *No above or below ground structural encroachments are permitted within the public right-of-way, including tie backs, caissons, etc.*
38. *The alley shall not be closed during the course of construction unless otherwise approved by the Public Works Department via a Temporary Street and Sidewalk Closure Permit.*
39. *Consistent with Mitigation Measure T.1, the southerly driveway shall be reviewed by the Traffic Engineer and any on-street parking spaces that are determined to result in a sight distance hazard shall be prohibited or removed.*

Mitigation Measures

40. *The applicant shall comply with all mitigation measures and standard conditions contained within the approved Mitigation Monitoring and Reporting Program of the adopted Mitigated Negative Declaration (Exhibit A) for the project.*

Attachment No. CD 3

March 9, 2010, Approved Plans



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ARCHITECTS

4850 BARRANCA PARKWAY
SUITE 203
IRVINE CA. 92604
(TEL) 949 552 2061
(FAX) 949 552 9442

ADVANCED MEDICAL FRONT ENTRY RENDER

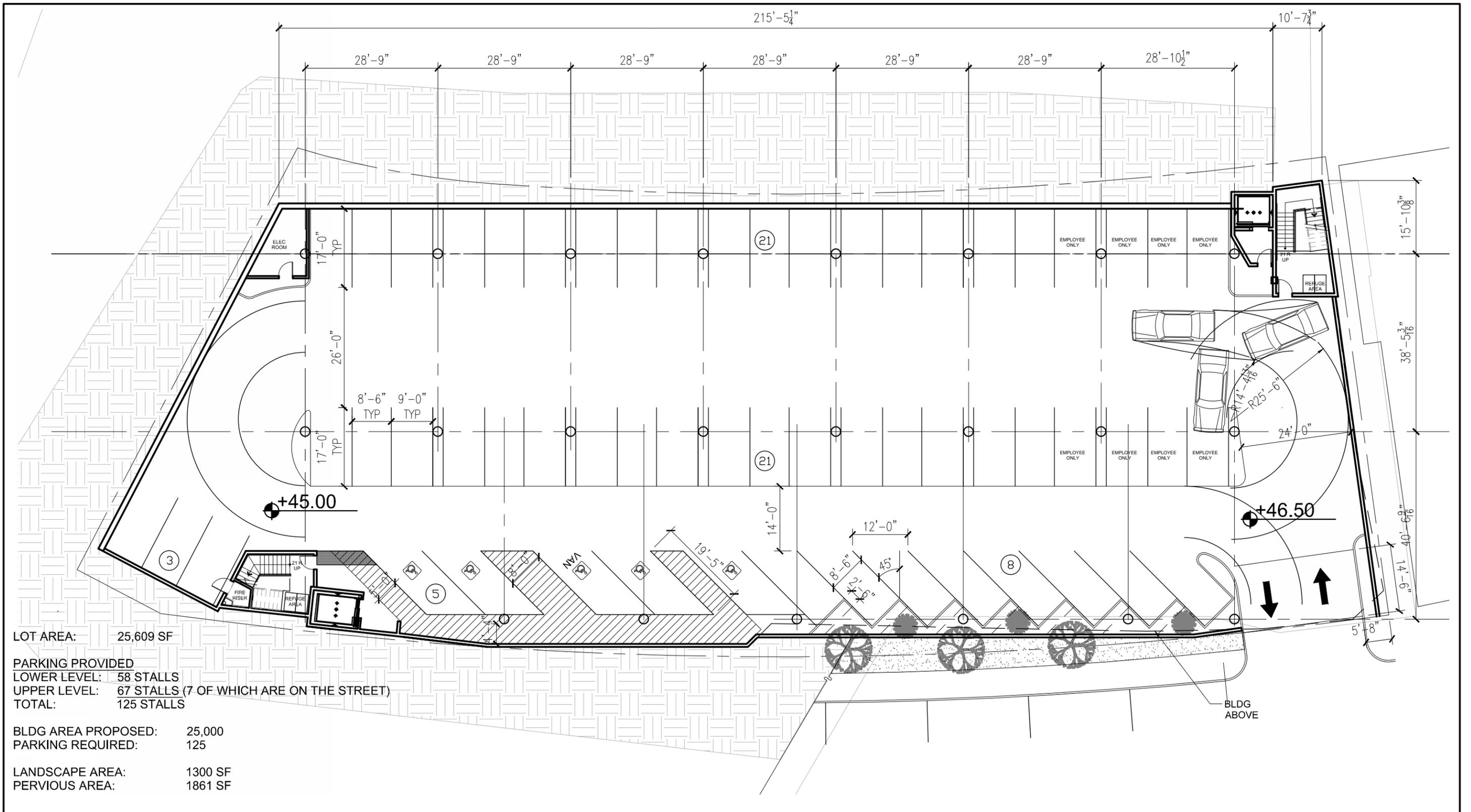
328-340 OLD NEWPORT BLVD.
CITY OF NEWPORT BEACH, CA

A-0

PROJECT No. 08099

DATE 01-27-2010

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LOT AREA: 25,609 SF

PARKING PROVIDED

LOWER LEVEL: 58 STALLS
 UPPER LEVEL: 67 STALLS (7 OF WHICH ARE ON THE STREET)
 TOTAL: 125 STALLS

BLDG AREA PROPOSED: 25,000
 PARKING REQUIRED: 125

LANDSCAPE AREA: 1300 SF
 PERVIOUS AREA: 1861 SF

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ADVANCED MEDICAL
LOWER PARKING LEVEL

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

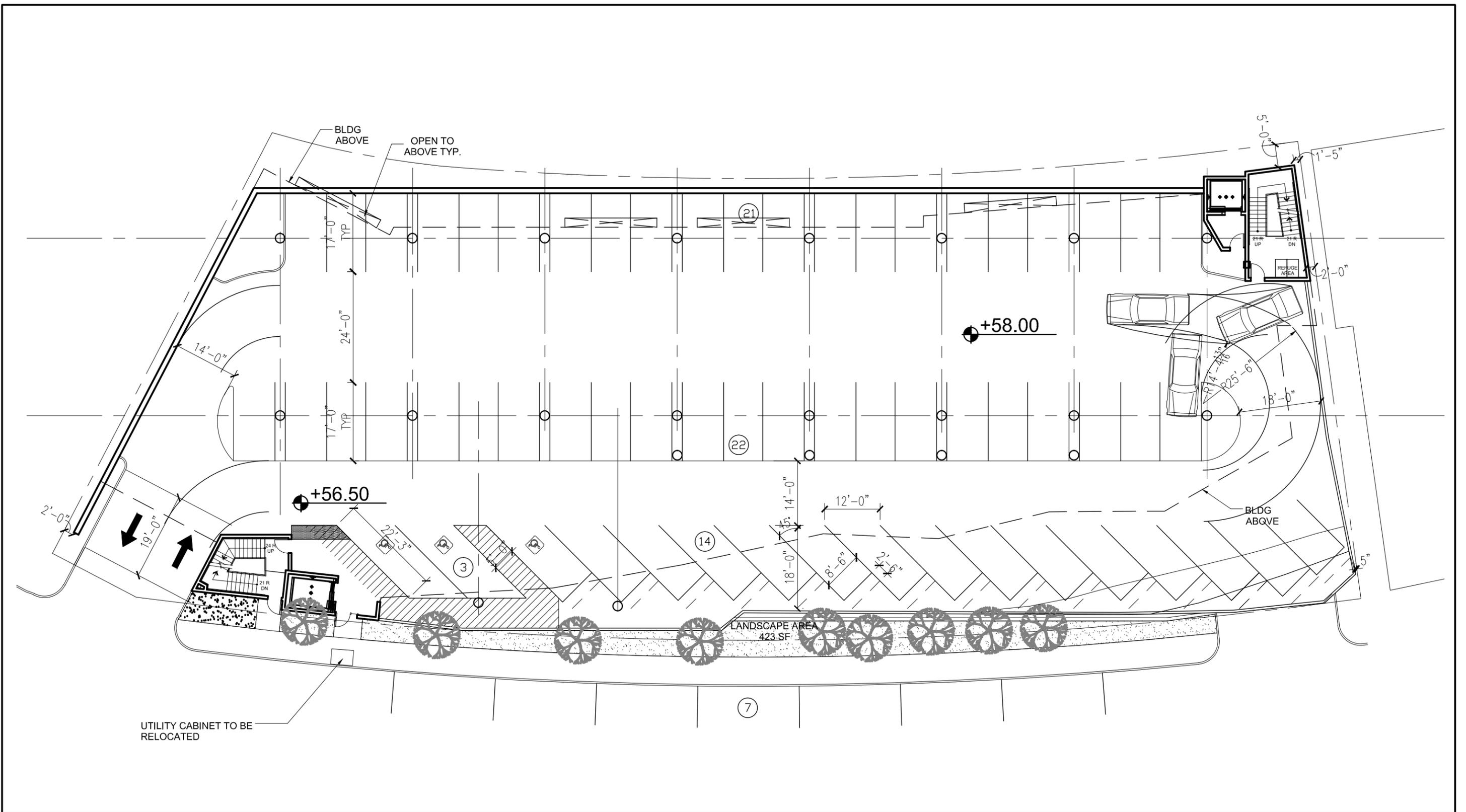
A-1

PROJECT No. 08099

DATE 01-27-2010

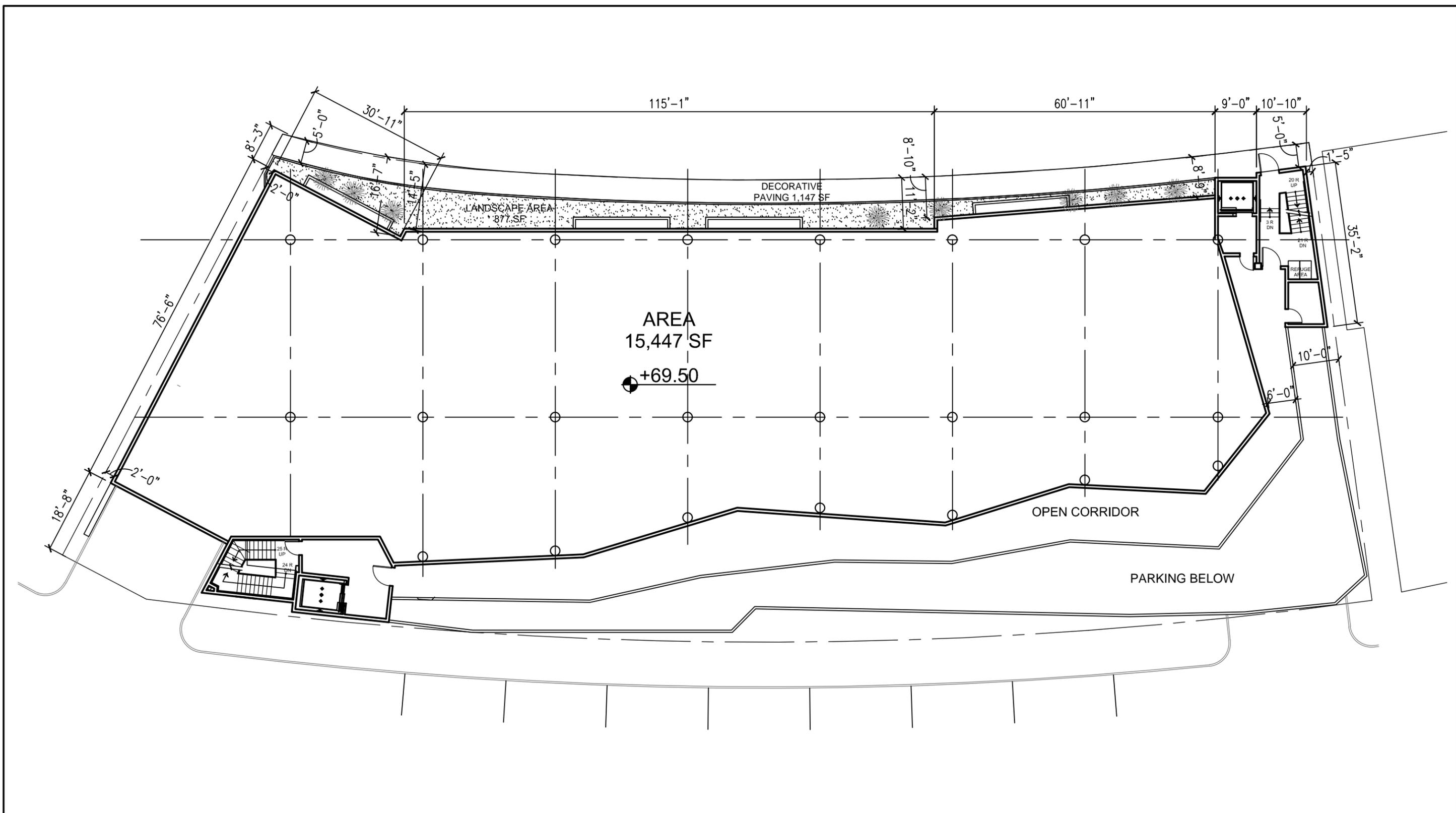
SCALE: 1"=20'-0"

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<p>WBSA WOOD BURGHARD SWAIN ARCHITECTS</p>	<p>4850 BARRANCA PARKWAY SUITE 203 IRVINE CA. 92604 (TEL) 949 552 2061 (FAX) 949 552 9442</p>	<p>ADVANCED MEDICAL UPPER PARKING -EMPLOYEE ONLY</p>	<p>328-340 OLD NEWPORT BLVD. CITY OF NEWPORT BEACH, CA</p>	<p>A-2</p>
<p>PROJECT No. 08099</p>		<p>DATE 01-27-2010</p>	<p>SCALE: 1"-20'-0"</p>	

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ADVANCED MEDICAL
OFFICE LEVEL 1

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

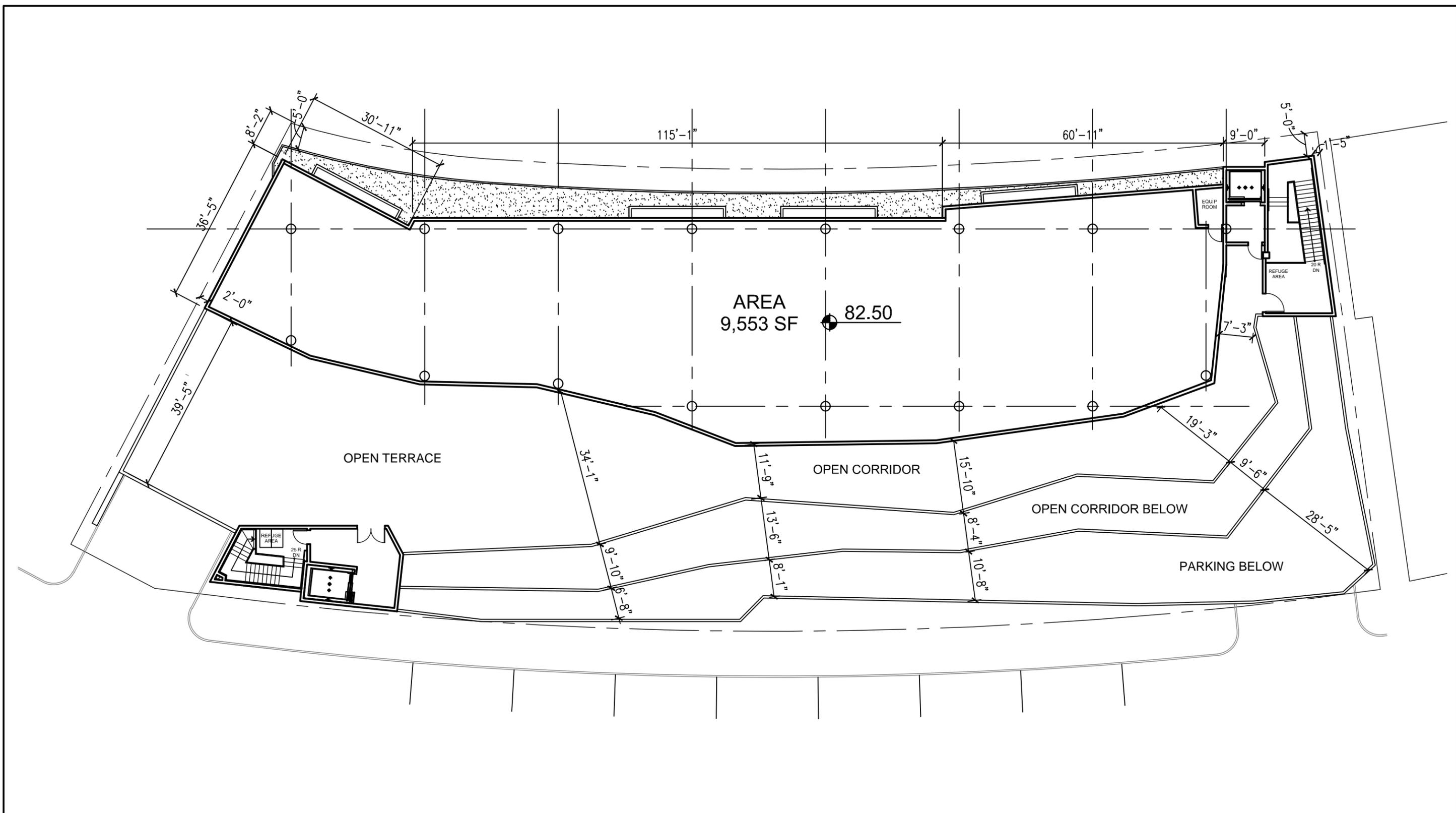
A-3

PROJECT No. 08099

DATE 01-27-2010

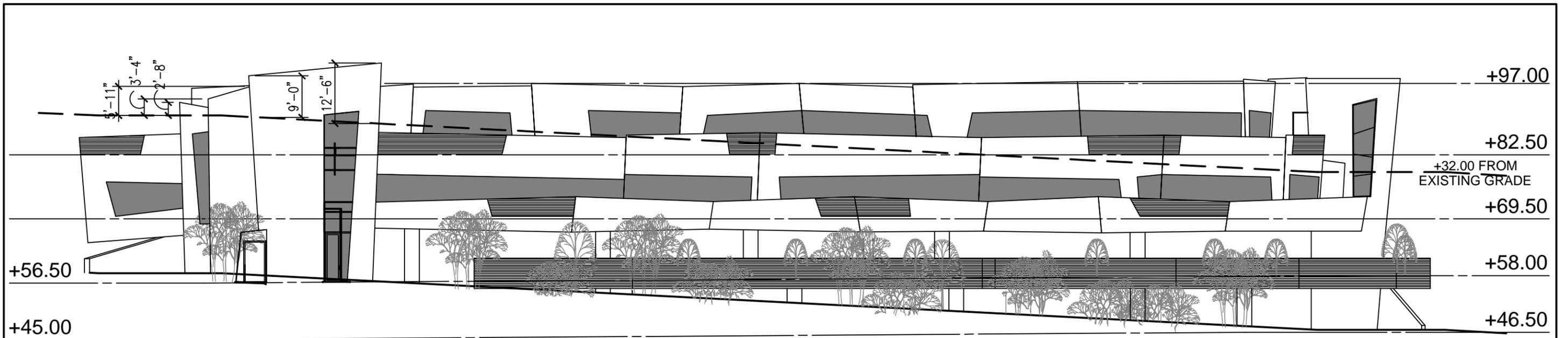
SCALE: 1"=20'-0"

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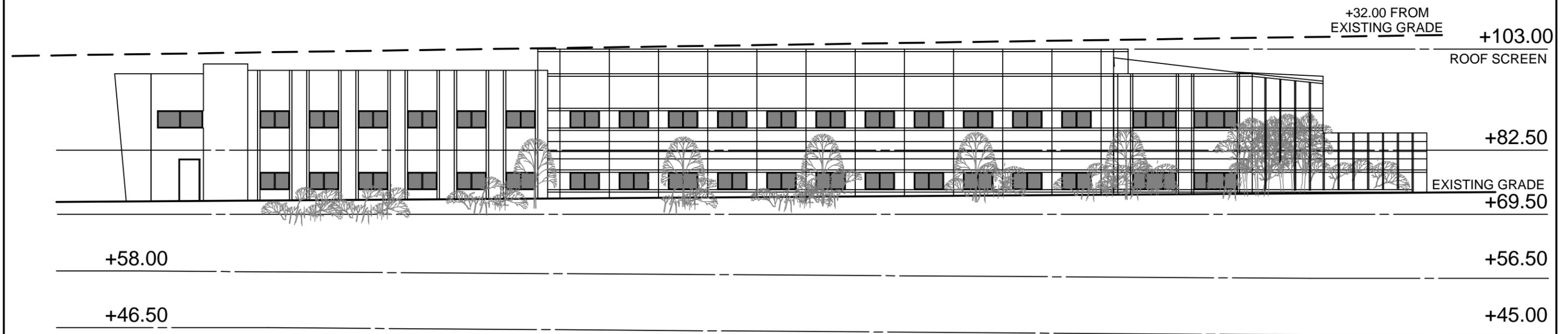


<p>WBSA WOOD BURGHARD SWAIN ARCHITECTS</p>	<p>4850 BARRANCA PARKWAY SUITE 203 IRVINE CA. 92604 (TEL) 949 552 2061 (FAX) 949 552 9442</p>	<p>ADVANCED MEDICAL OFFICE LEVEL 2</p>	<p>328-340 OLD NEWPORT BLVD. CITY OF NEWPORT BEACH, CA</p>	<p>A-4</p>
<p>PROJECT No. 08099</p>		<p>DATE 01-27-2010</p>	<p>SCALE: 1"=20'-0"</p>	

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OLD NEWPORT - WEST ELEVATION



ALLEY - EAST ELEVATION

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ADVANCED MEDICAL
STREET EXTERIOR ELEVATIONS

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

A-5

PROJECT No. 08099

DATE 01-27-2010

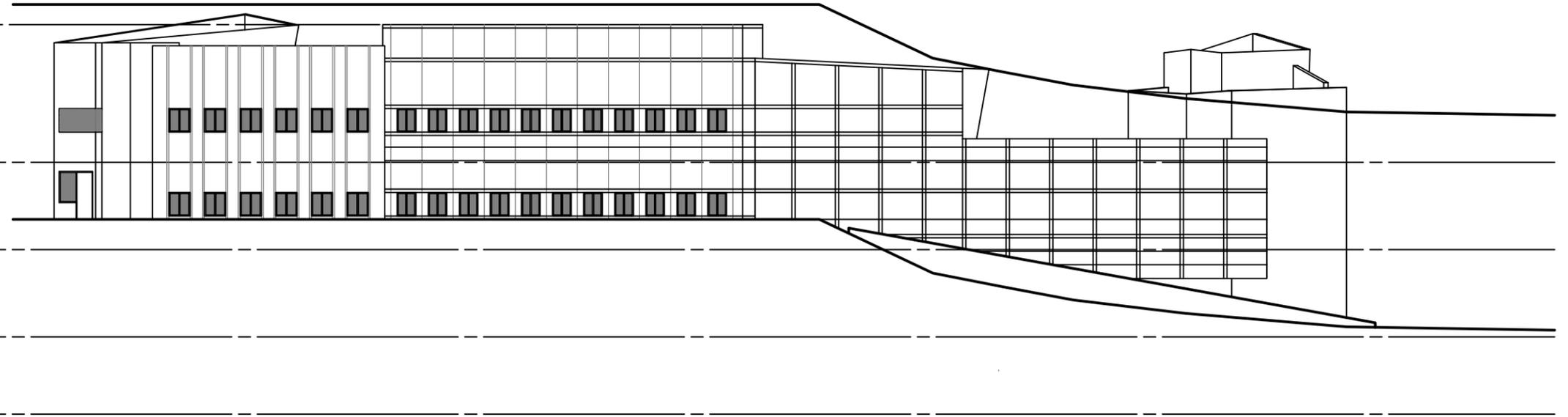
+103.00 ROOF
SCREEN

+82.50

+69.50

+56.50

+45.00



SIDE - NORTH ELEVATION

+97.00

+82.50

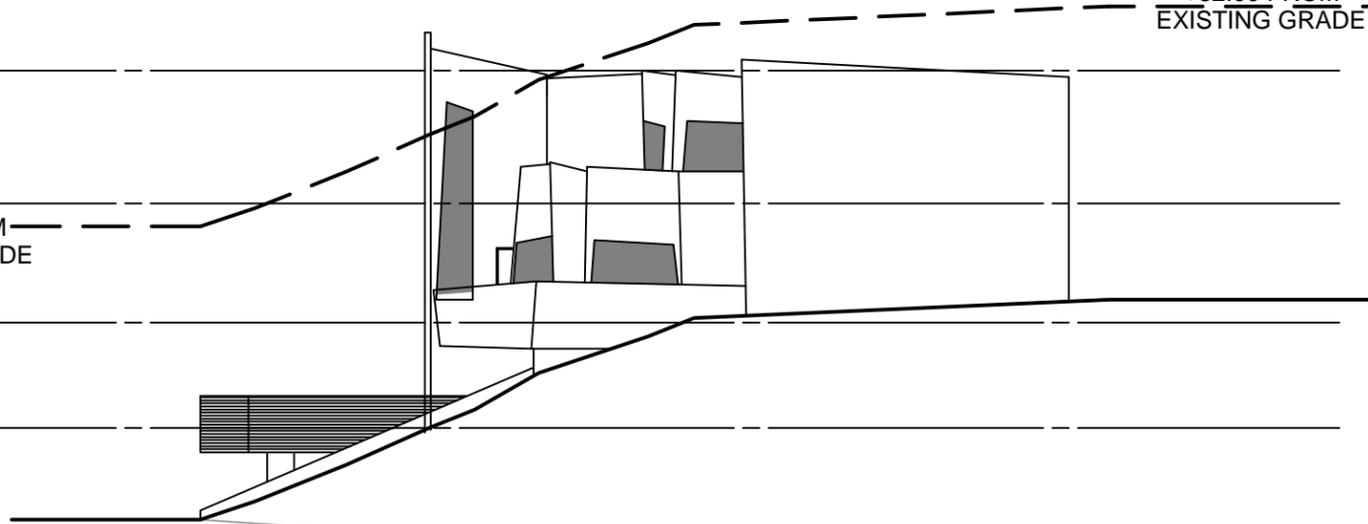
+69.50

+58.00

+46.50

+32.00 FROM
EXISTING GRADE

+32.00 FROM
EXISTING GRADE



OCEAN VIEW - SOUTH ELEVATION

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ADVANCED MEDICAL
SIDE EXTERIOR ELEVATIONS

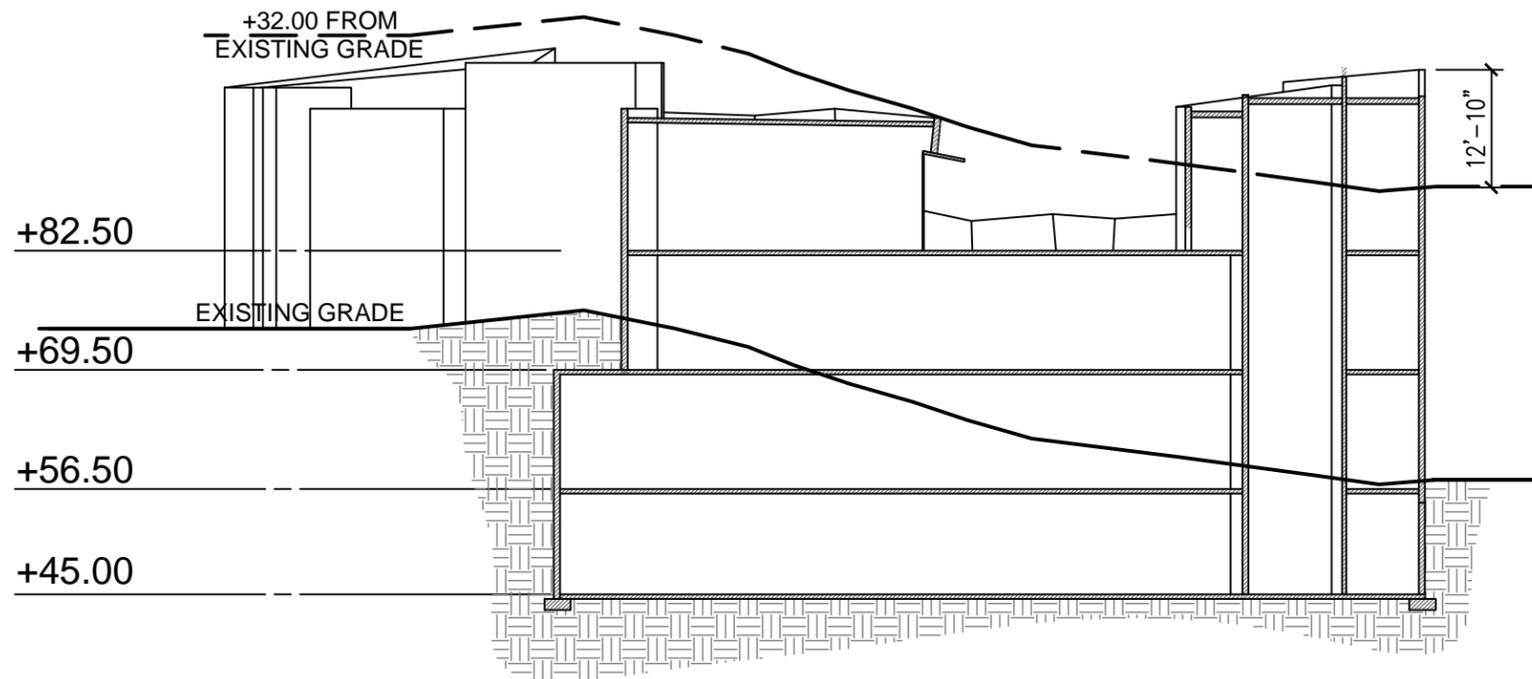
328-340 OLD NEWPORT BLVD.
CITY OF NEWPORT BEACH, CA

A-6

PROJECT No. 08099

DATE 01-27-2010

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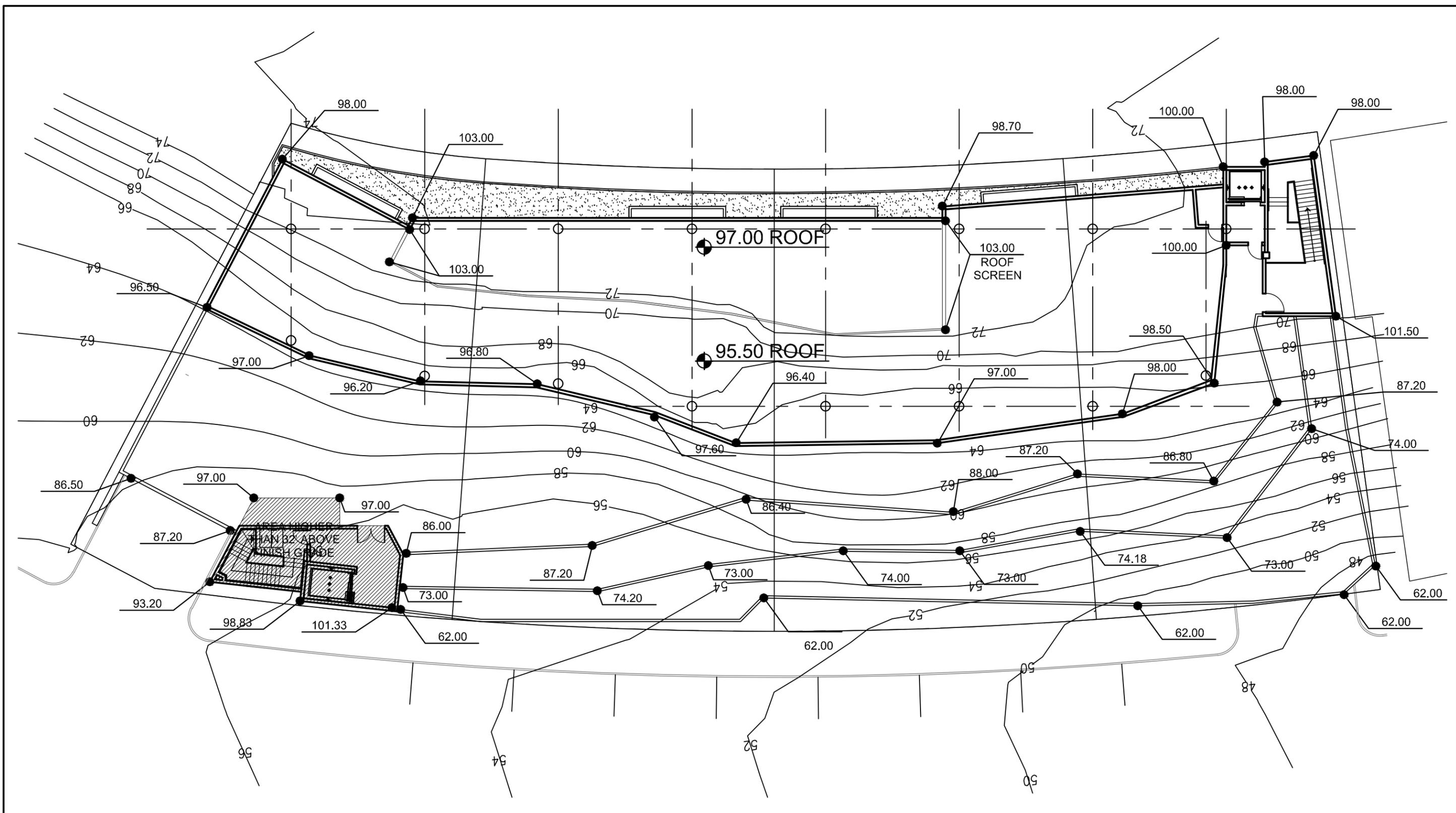
ADVANCED MEDICAL
SITE SECTION

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

A-7

PROJECT No. 08099

DATE 01-27-2010



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ADVANCED MEDICAL
ROOF PLAN OVER INTERPOLATED GRADING

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

A-8

PROJECT No. 08099

DATE 01-27-2010

SCALE: 1"=20'-0"

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ADVANCED MEDICAL
STREET FRONT RENDER

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

A-9

PROJECT No. 08099

DATE 01-27-2010

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ADVANCED MEDICAL
REAR PERSPECTIVE RENDER

328-340 OLD NEWPORT BLVD.
 CITY OF NEWPORT BEACH, CA

A-10

PROJECT No. 08099

DATE 01-27-2010

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Attachment No. CD 4

Modified Plans

Newport Harbor Medical Plaza Planning Department Resubmittal

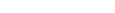


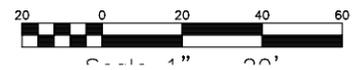
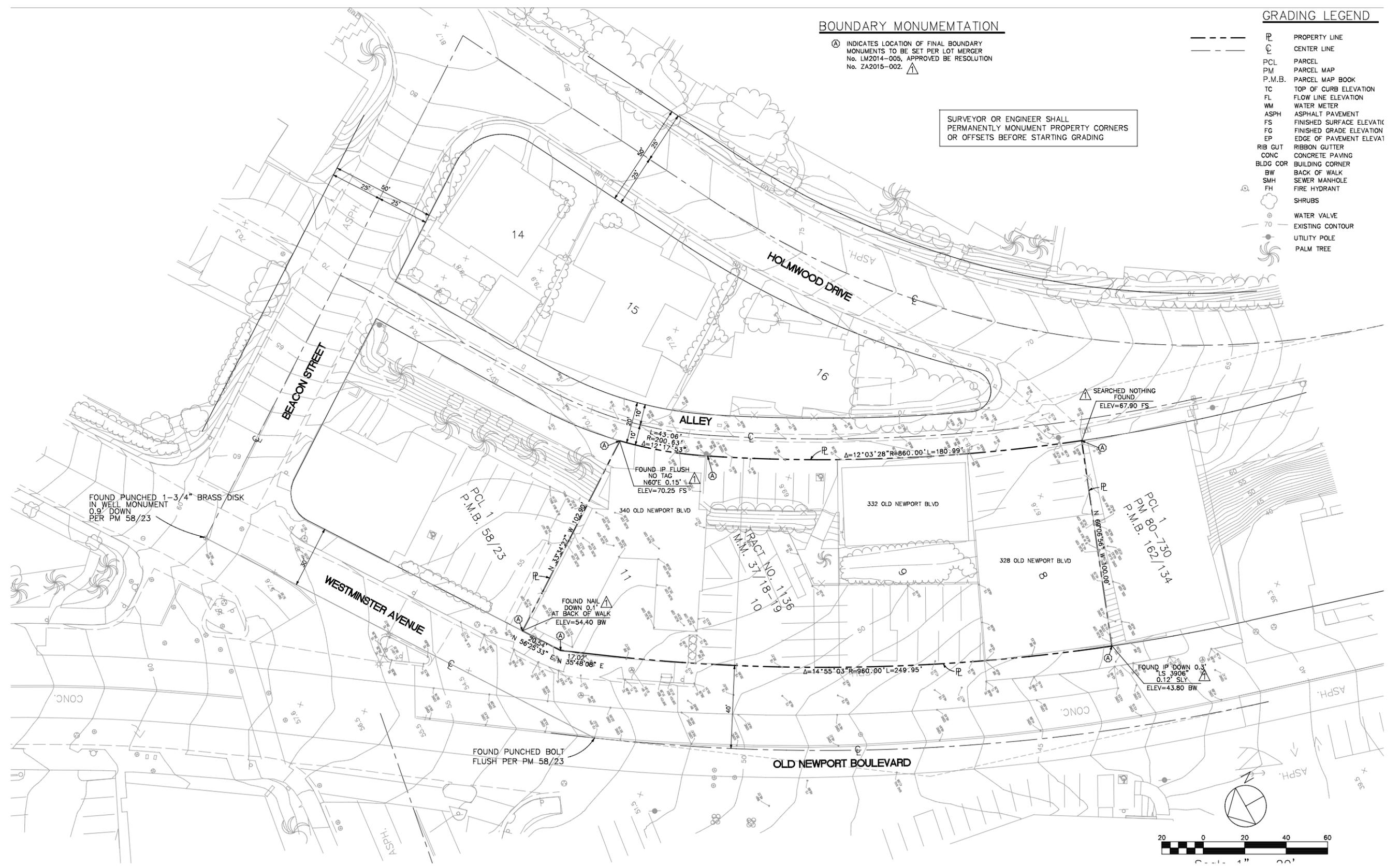
BOUNDARY MONUMENTATION

(A) INDICATES LOCATION OF FINAL BOUNDARY MONUMENTS TO BE SET PER LOT MERGER No. LM2014-005, APPROVED BE RESOLUTION No. ZA2015-002. 

SURVEYOR OR ENGINEER SHALL PERMANENTLY MONUMENT PROPERTY CORNERS OR OFFSETS BEFORE STARTING GRADING

GRADING LEGEND

-  PL PROPERTY LINE
-  CL CENTER LINE
-  PCL PARCEL
-  PM PARCEL MAP
-  P.M.B. PARCEL MAP BOOK
-  TC TOP OF CURB ELEVATION
-  FL FLOW LINE ELEVATION
-  WM WATER METER
-  ASPH ASPHALT PAVEMENT
-  FS FINISHED SURFACE ELEVATION
-  FG FINISHED GRADE ELEVATION
-  EP EDGE OF PAVEMENT ELEVATION
-  RIB GUT RIBBON GUTTER
-  CONC CONCRETE PAVING
-  BLDG COR BUILDING CORNER
-  BW BACK OF WALK
-  SMH SEWER MANHOLE
-  FH FIRE HYDRANT
-  SHRUBS
-  WATER VALVE
-  EXISTING CONTOUR
-  UTILITY POLE
-  PALM TREE



Newport Harbor Medical Plaza

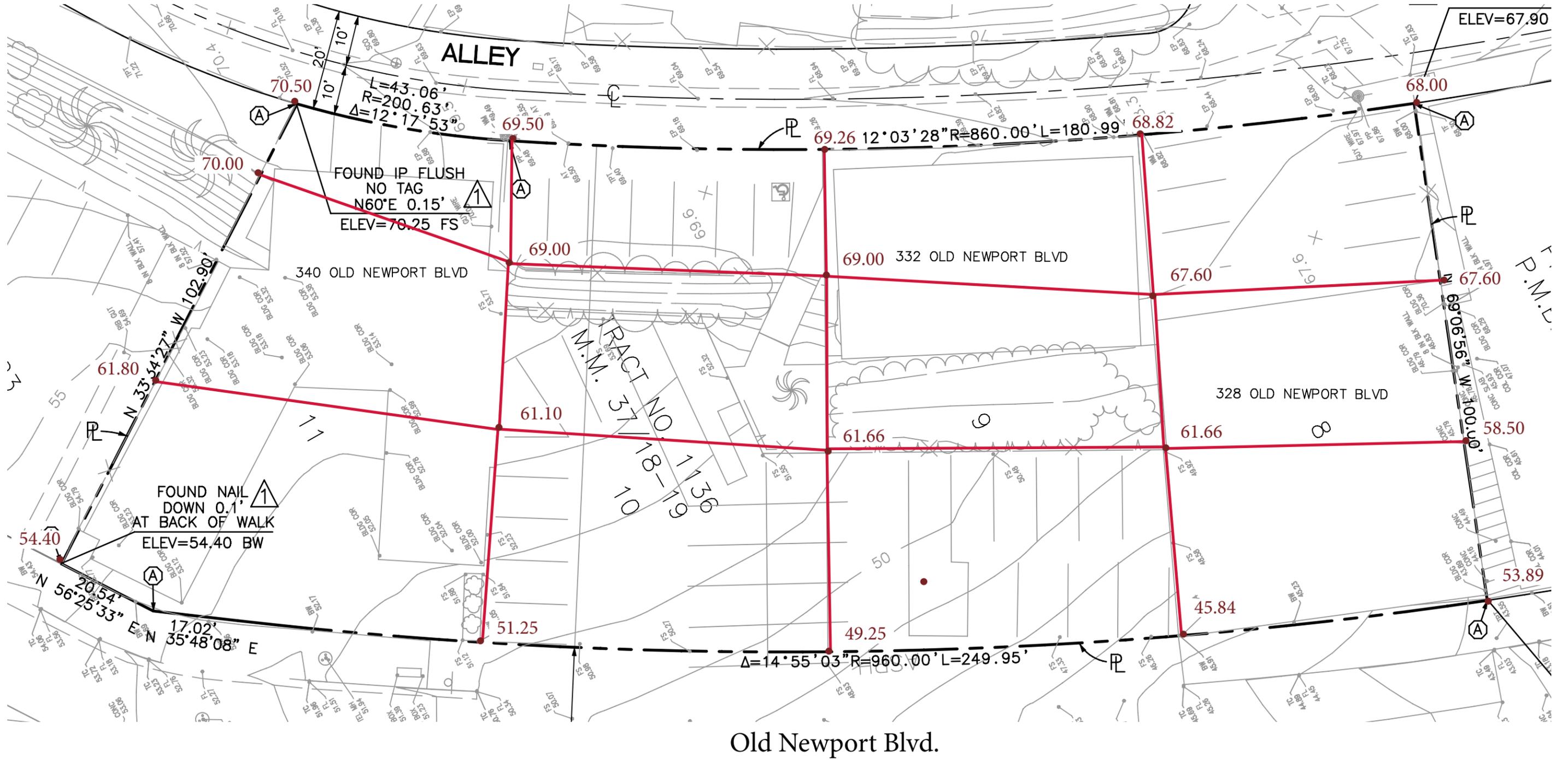
Old Newport Blvd., Newport Beach, CA

Topo Survey - Existing Site Plan

Planning Department Resubmittal

BUNDY-FINKEL Architects

1120 BRISTOL ST. STE. 120
COSTA MESA CA 92626
P. 714-850-7575 F. 714-850-7576



Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

Ground Plane Exhibit

Planning Department Resubmittal

BUNDY-FINKEL Architects

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Proposed New Building



Existing Buildings

Newport Harbor Medical Plaza

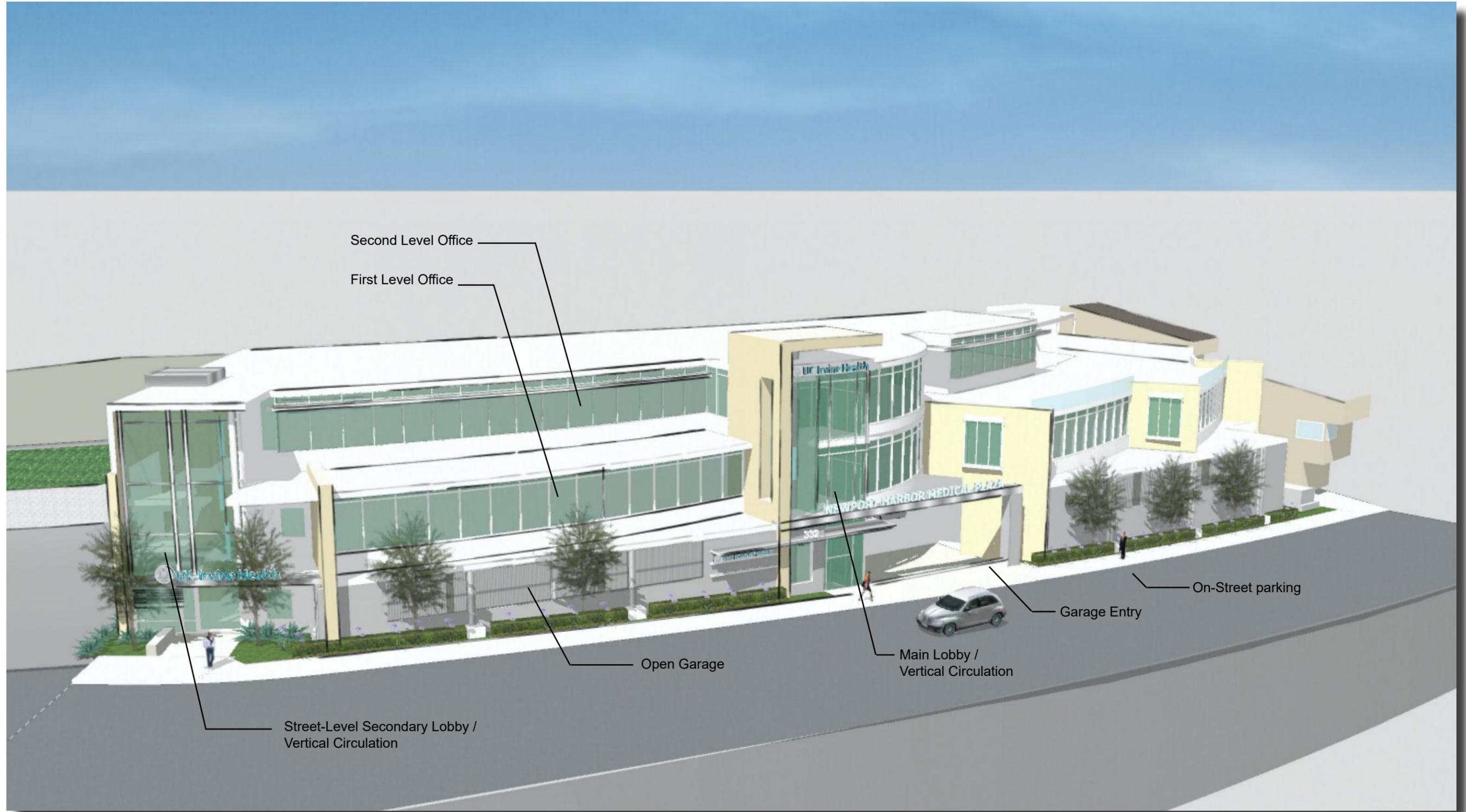
Old Newport Blvd., Newport Beach, CA

Old Newport Blvd.

Planning Department Resubmittal

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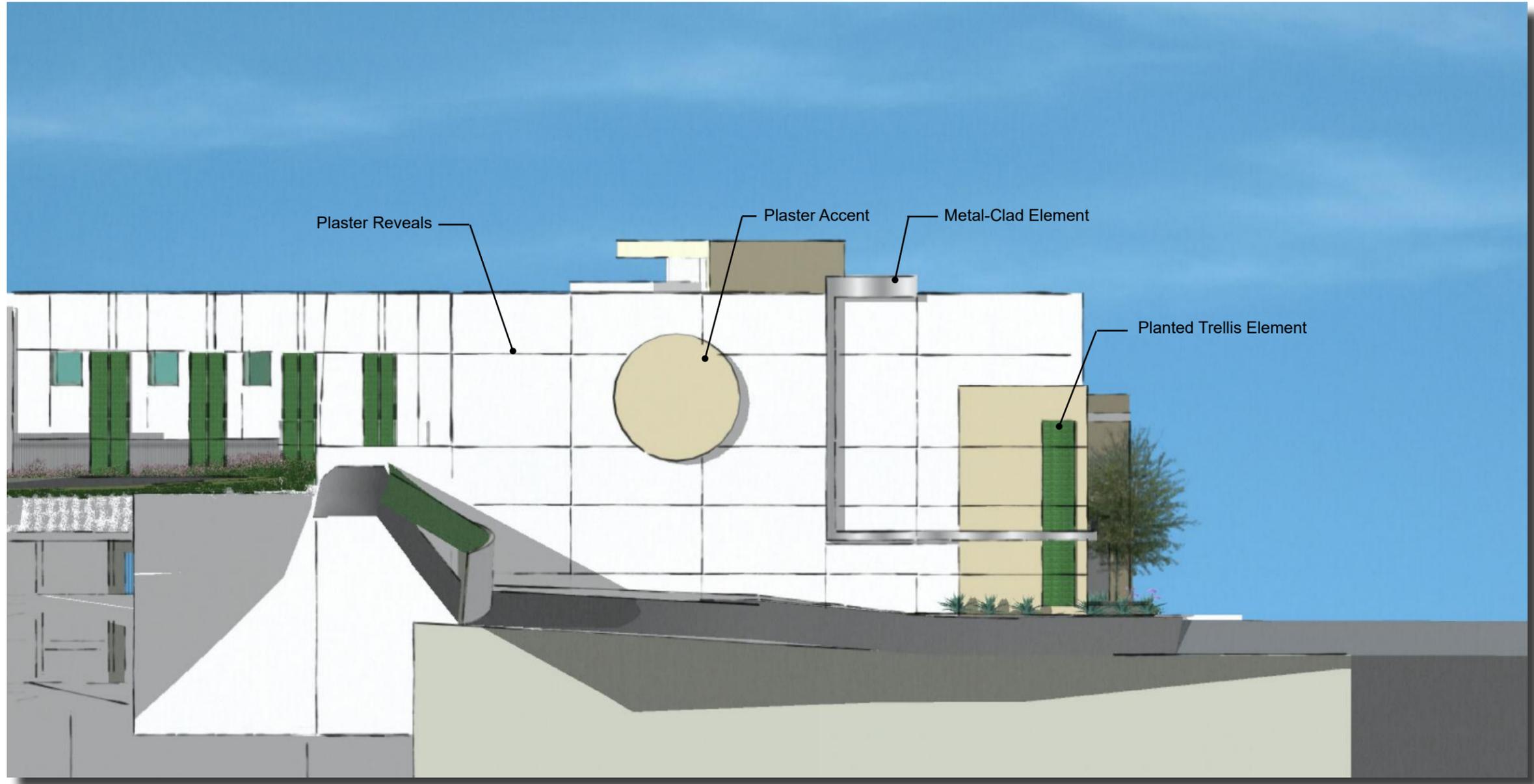
Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

Planning Department Resubmittal

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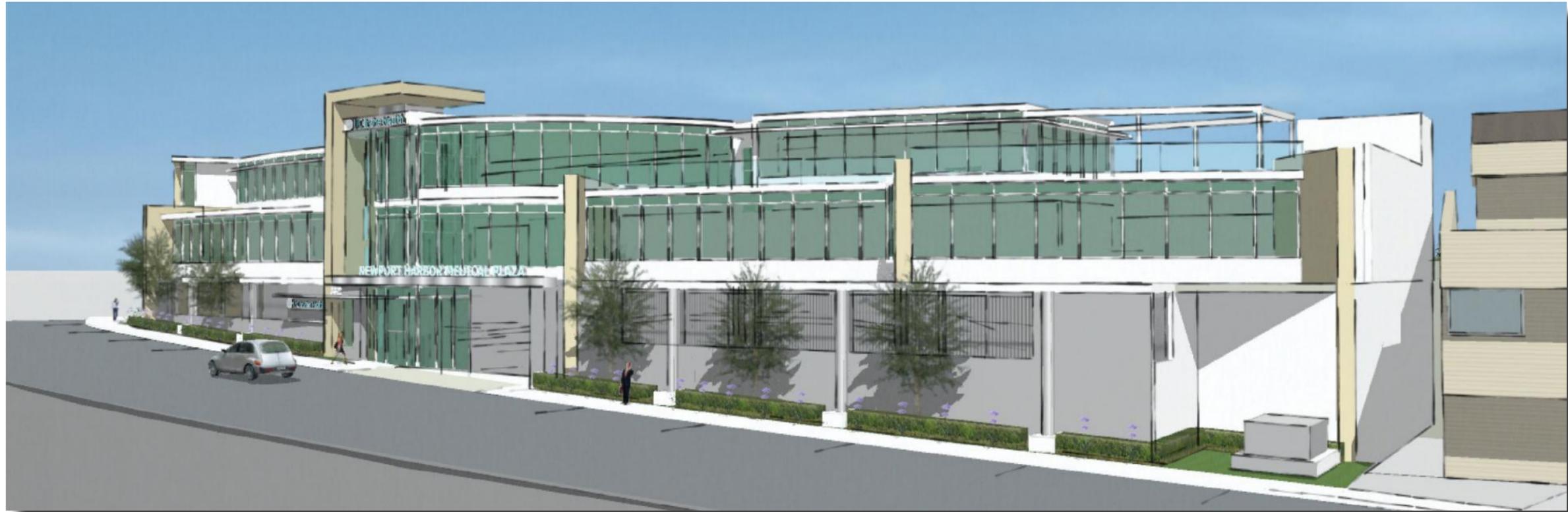


Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

Updated North Elevation

Planning Department Resubmittal



Newport Harbor Medical Plaza

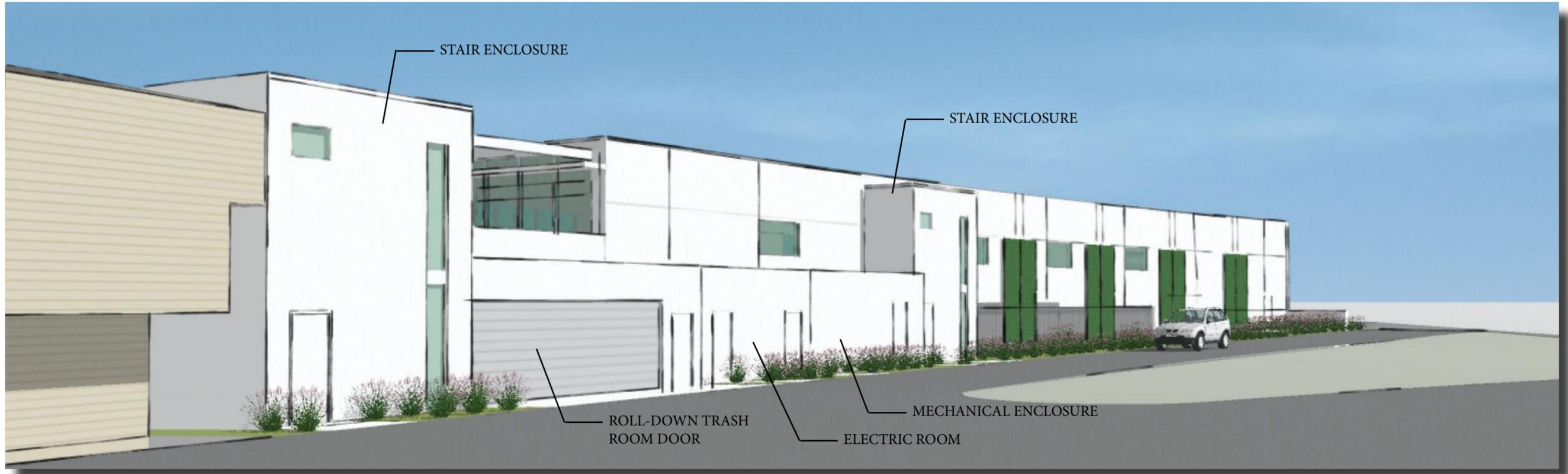
Old Newport Blvd., Newport Beach, CA

Old Newport Blvd. Views

Planning Department Resubmittal

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Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

Alley Views

Planning Department Resubmittal

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Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

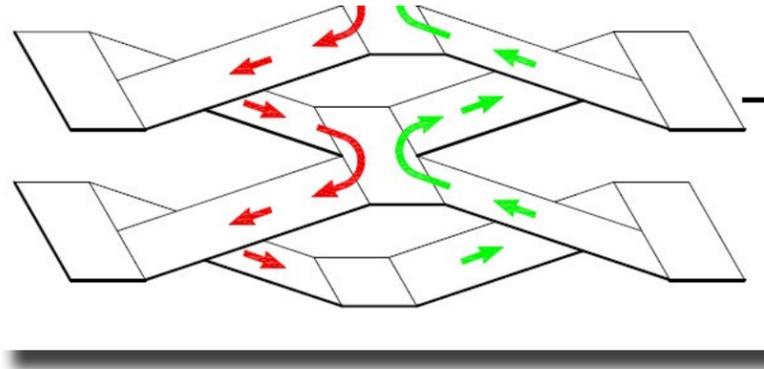
Colored Roof Plan

Planning Department Resubmittal

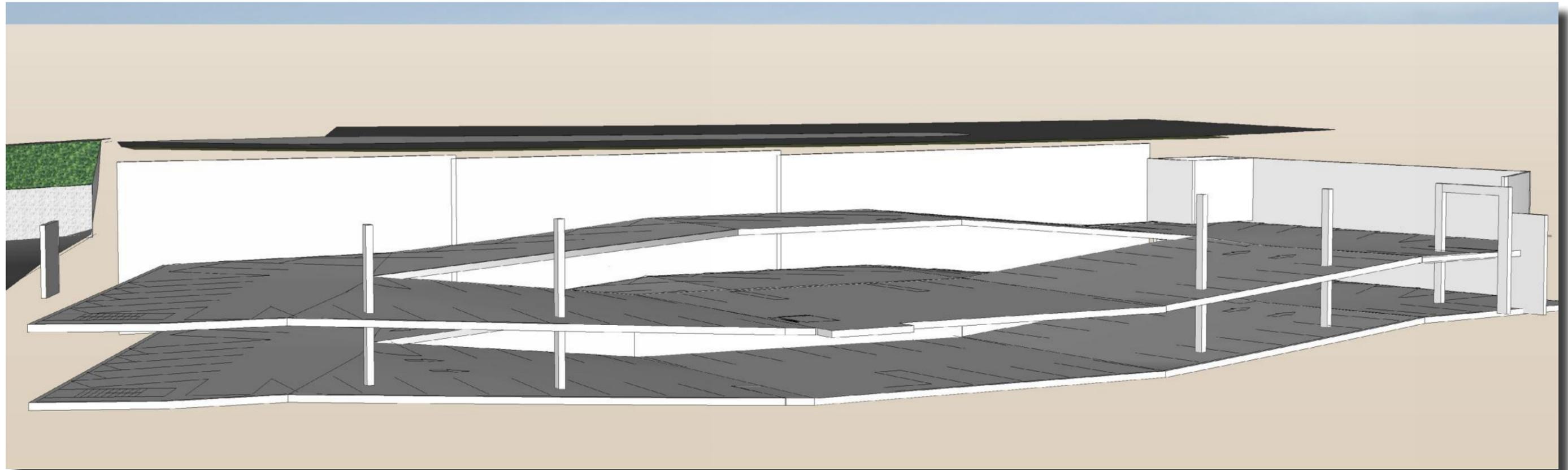


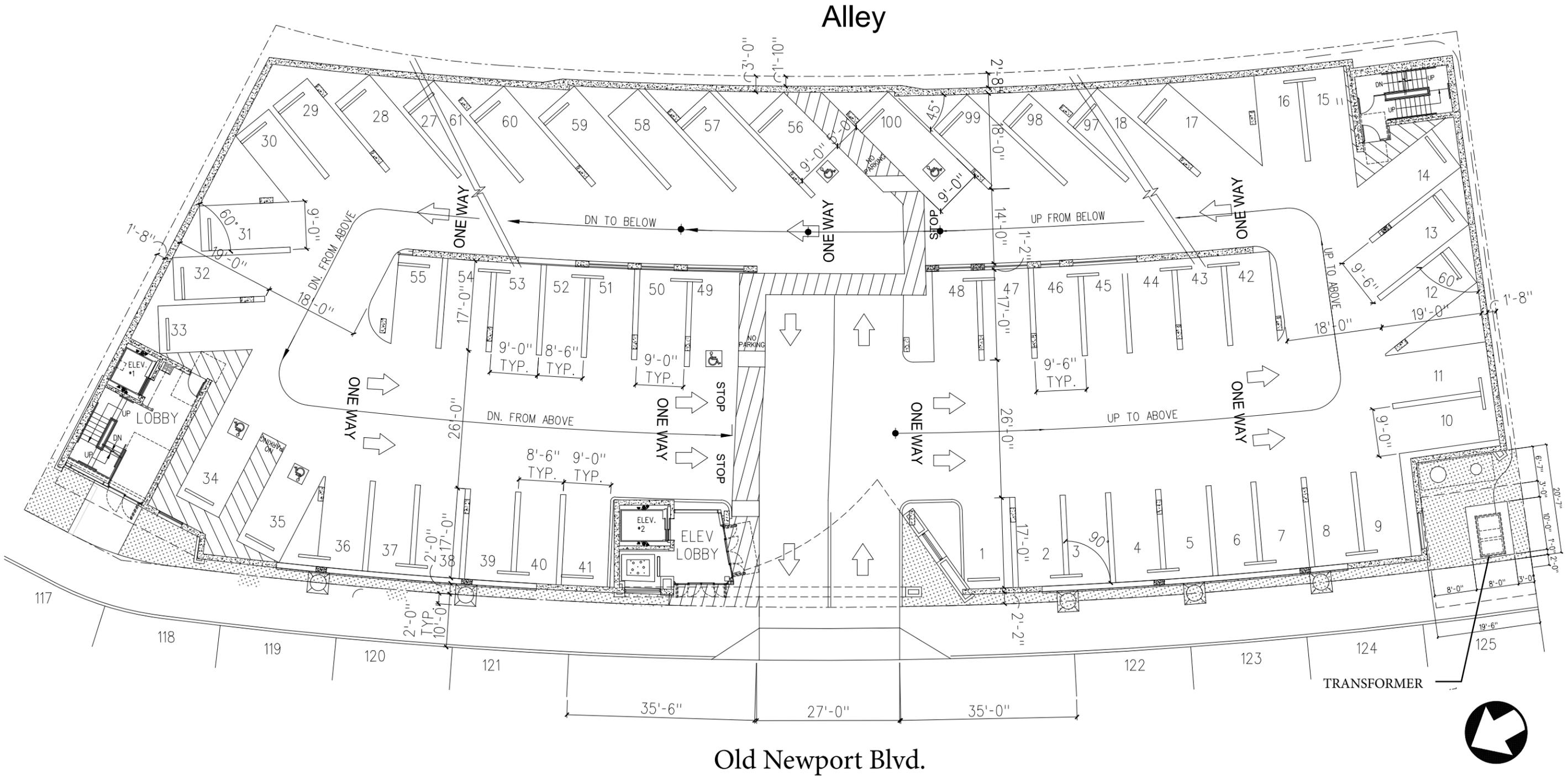
1120 BRISTOL ST. • STE. 120
 COSTA MESA • CA • 92626
 P. 714-850-7575 F. 714-850-7576

*Diagram Only
Not meant to represent actual ramp
configuration for this building



End-to-End Helix, One-Way
Circulation Design *





Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

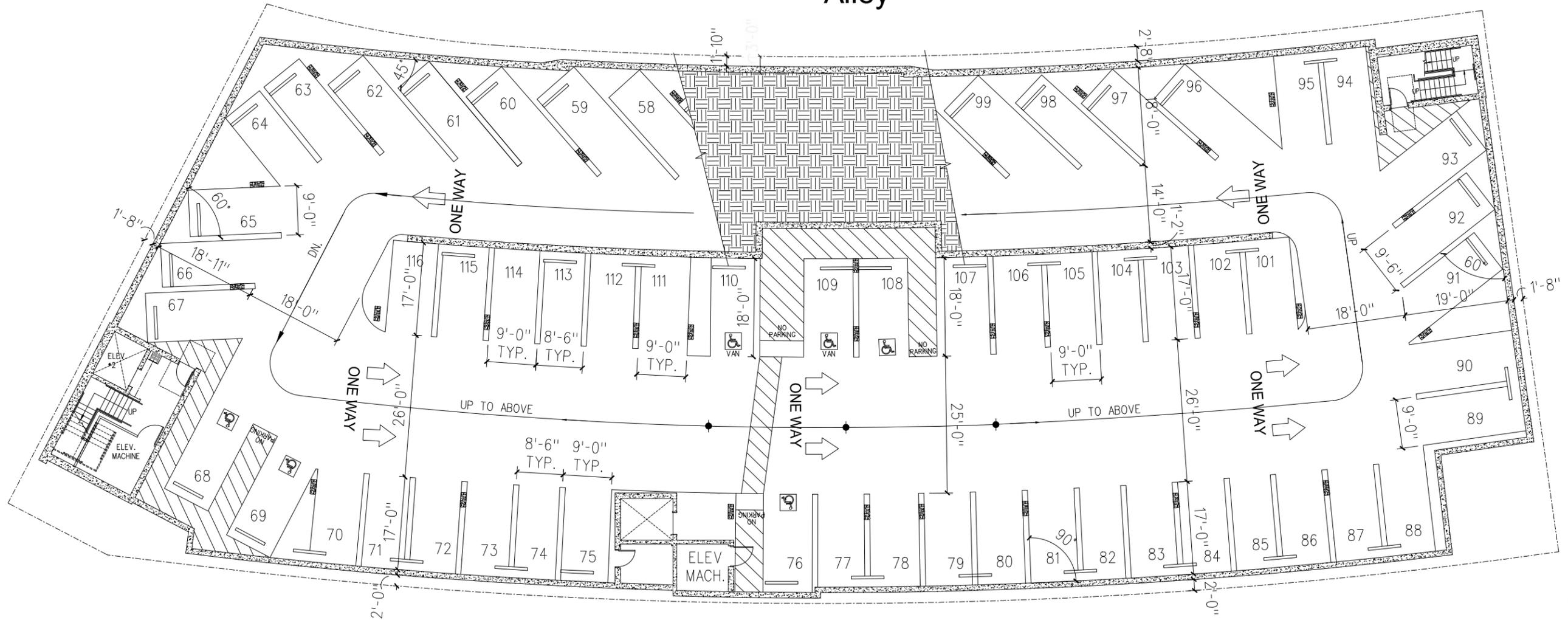
Entry Level Parking Plan

Planning Department Resubmittal

BUNDY-FINKEL Architects

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P. 714-850-7575 F. 714-850-7576

Alley



Old Newport Blvd.

Newport Harbor Medical Plaza

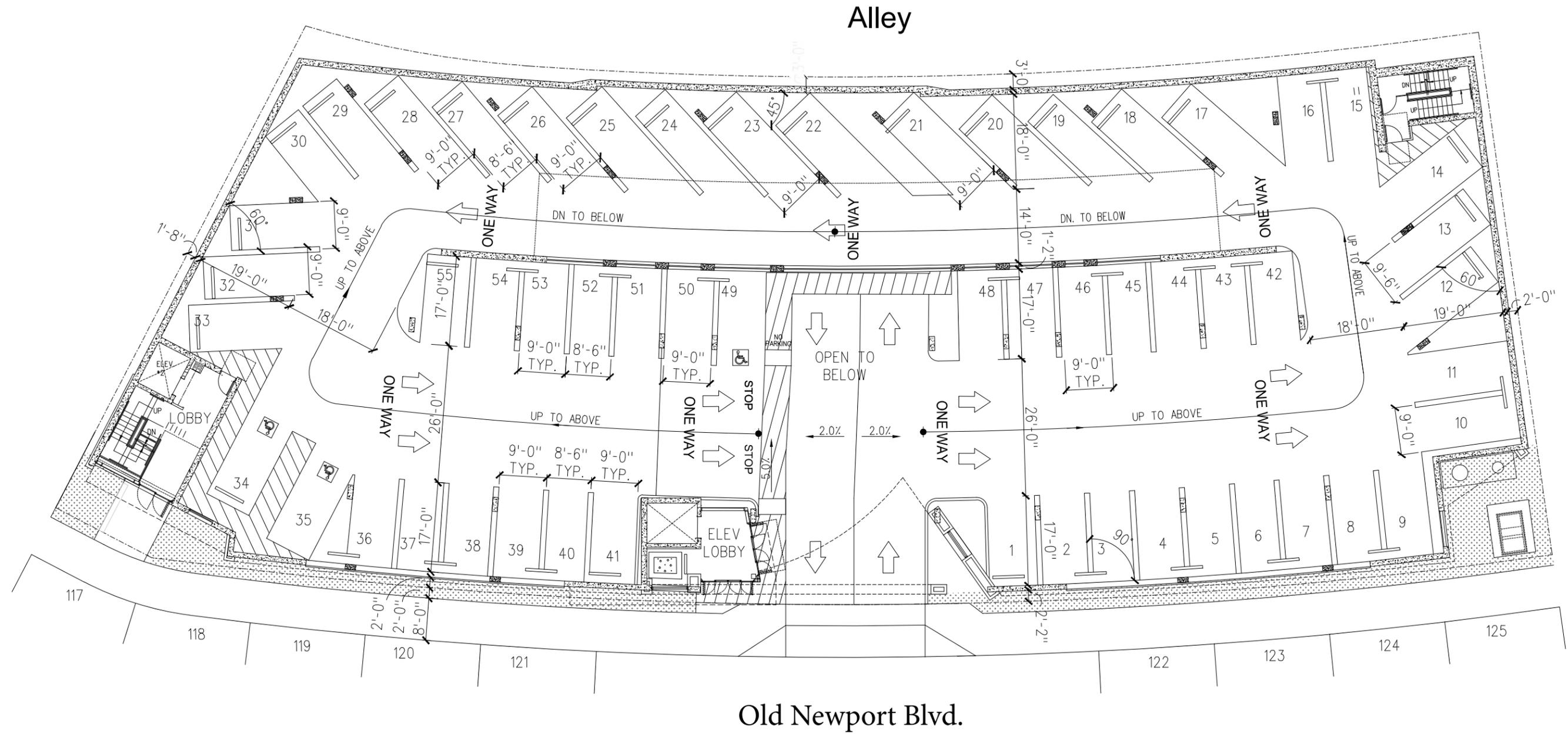
Lower Level Parking Plan

Old Newport Blvd., Newport Beach, CA

Planning Department Resubmittal

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COSTA MESA • CA • 92626
P. 714•850•7575 F. 714•850•7576



Newport Harbor Medical Plaza

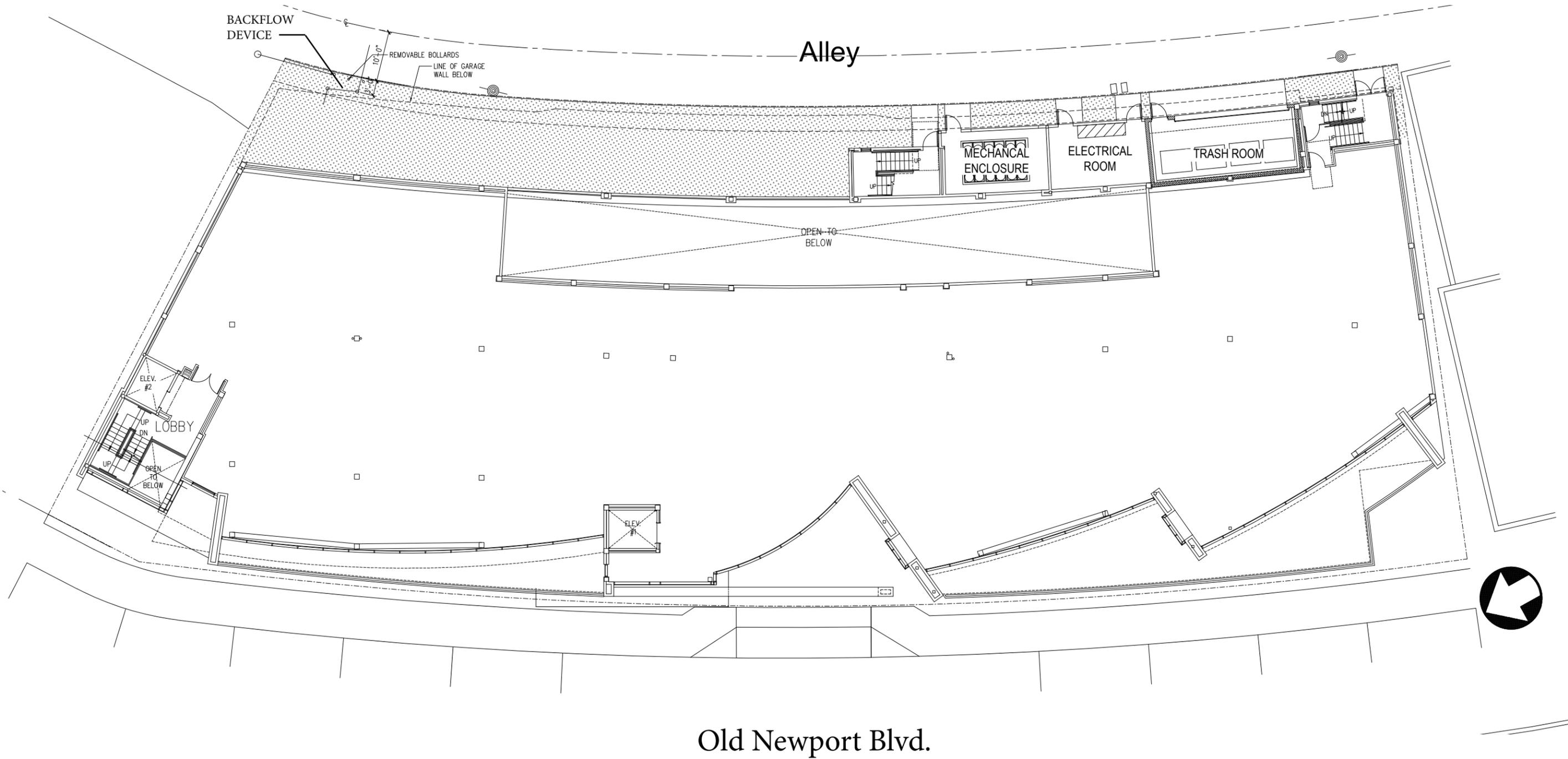
Old Newport Blvd., Newport Beach, CA

Upper Level Parking Plan

Planning Department Resubmittal

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Newport Harbor Medical Plaza

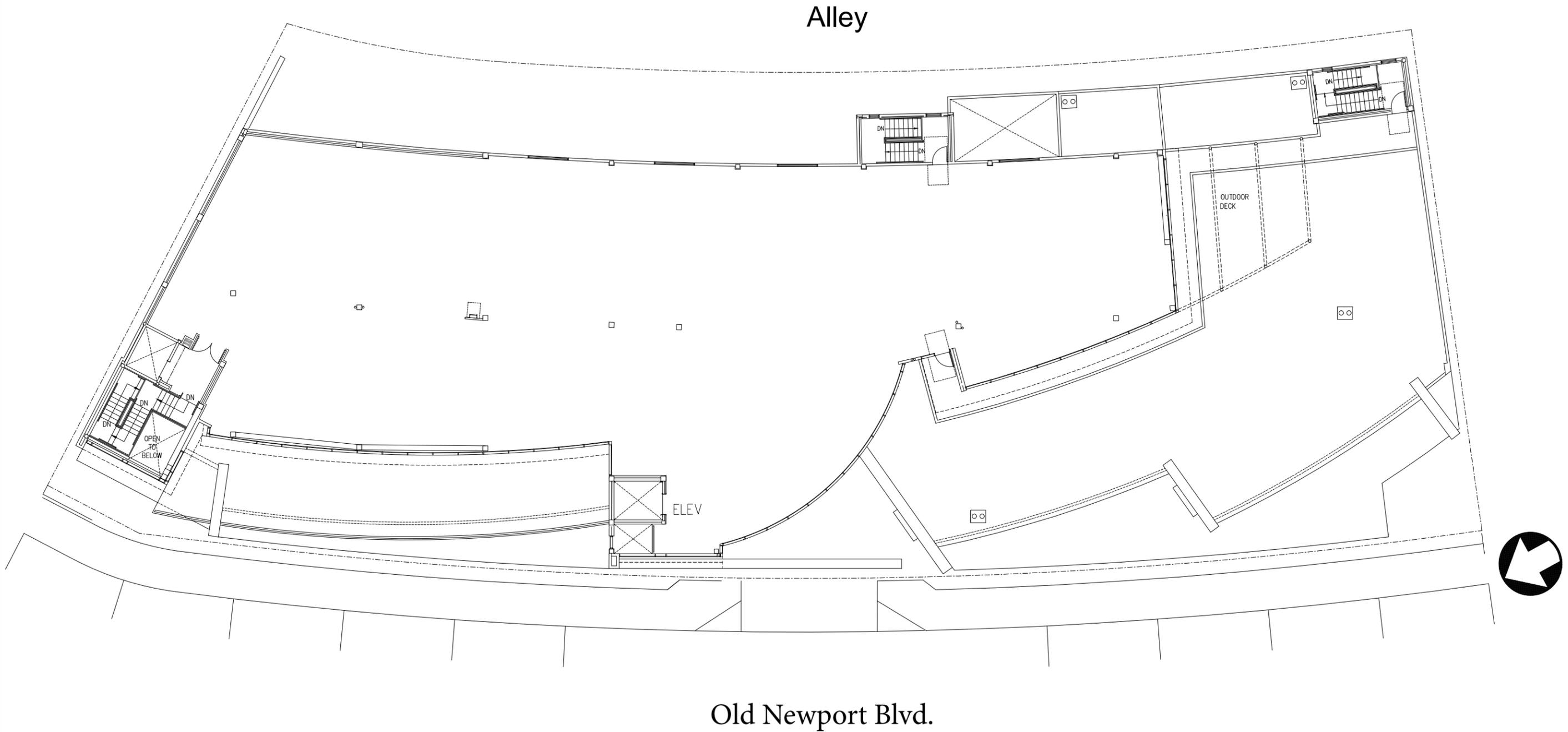
Old Newport Blvd., Newport Beach, CA

1st Floor Office Plan

Planning Department Resubmittal

BUNDY-FINKEL Architects

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Newport Harbor Medical Plaza

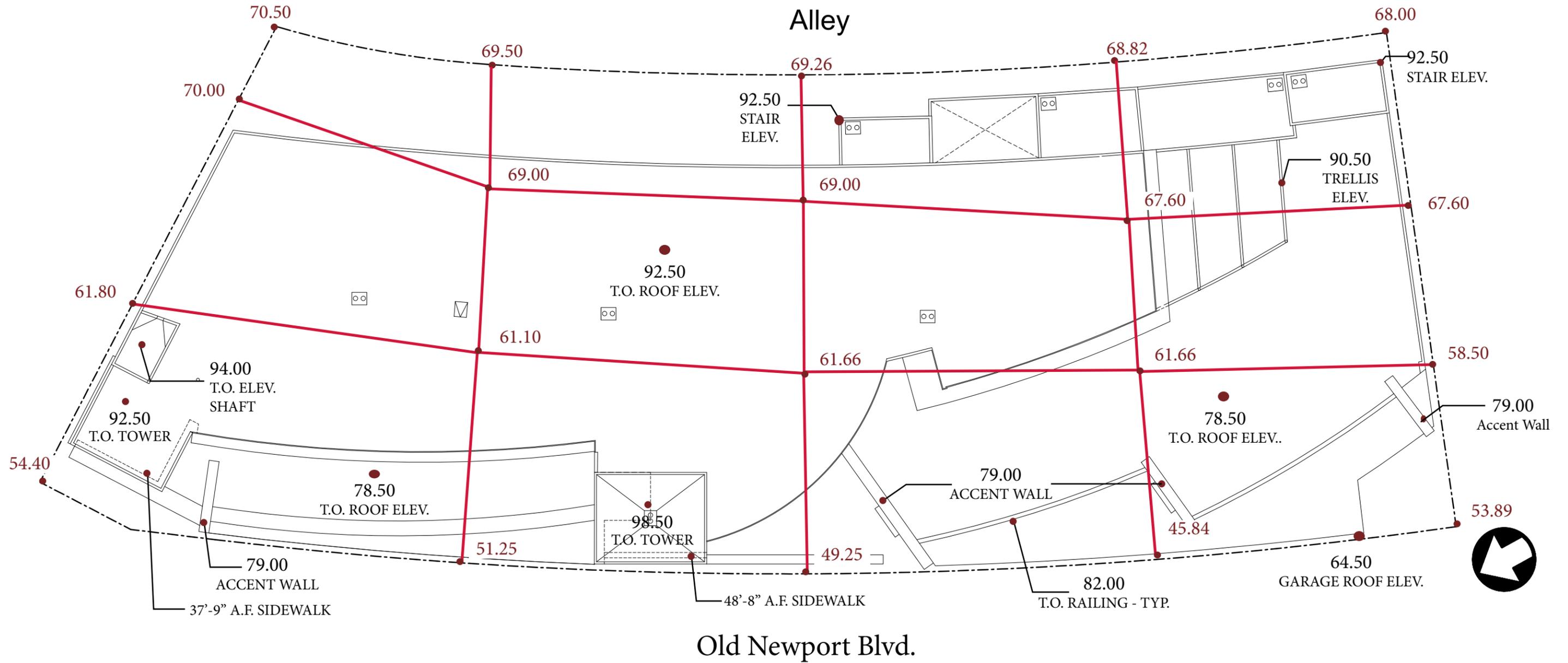
Old Newport Blvd., Newport Beach, CA

2nd Floor Office Plan

Planning Department Resubmittal

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P. 714-850-7575 F. 714-850-7576



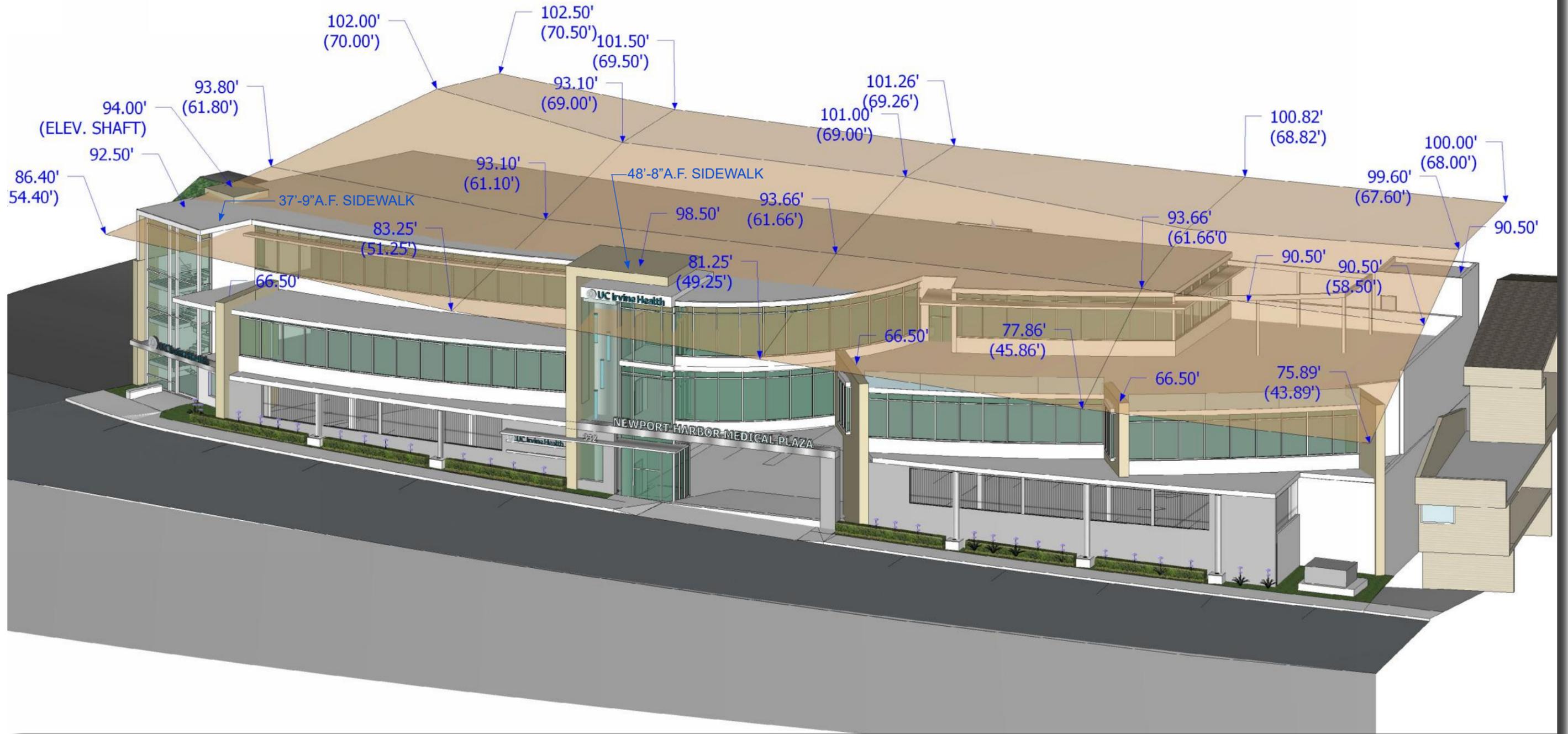
Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

Planning Department Resubmittal

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COSTA MESA CA 92626
P. 714-850-7575 F. 714-850-7576



Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

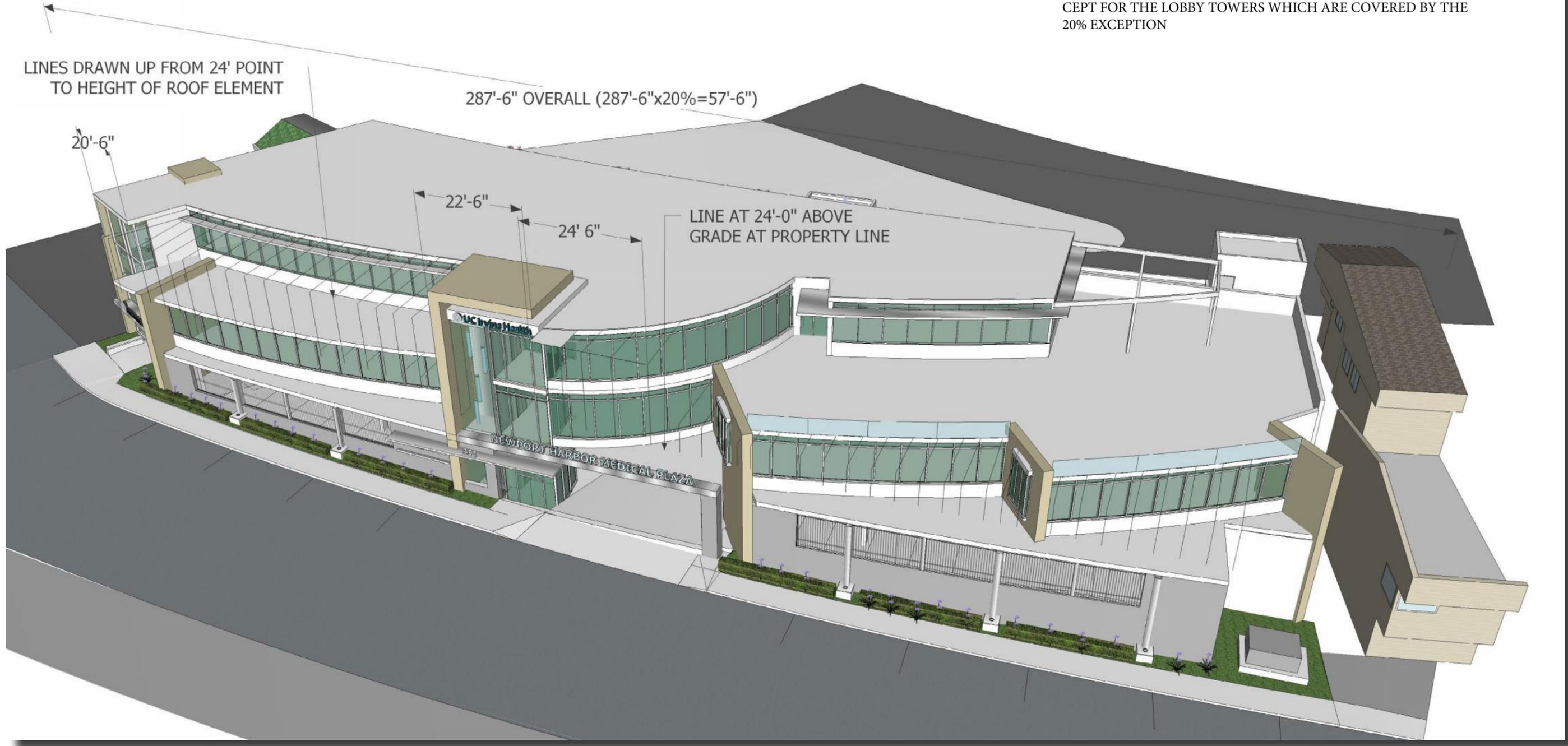
Building Height Envelope Study

Planning Department Resubmittal

BUNDY-FINKEL Architects

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COSTA MESA • CA • 92626
P. 714-850-7575 F. 714-850-7576

ALL ROOF ELEMENTS ABOVE 24' STEP BACK FROM THE FRONT PROPERTY LINE A MIN. OF 1 FT. FOR EVERY FT. ABOVE 24' EXCEPT FOR THE LOBBY TOWERS WHICH ARE COVERED BY THE 20% EXCEPTION



Newport Harbor Medical Plaza

Old Newport Blvd., Newport Beach, CA

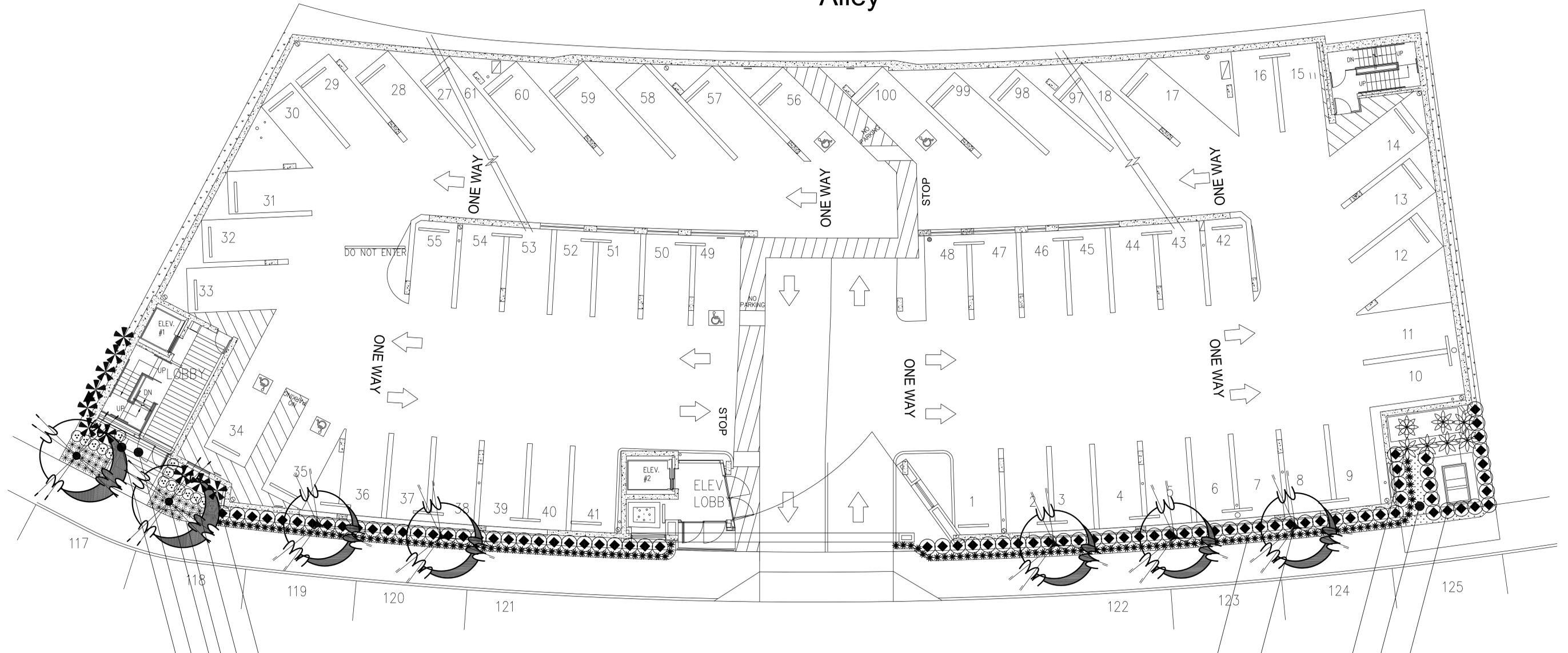
24' Height Study

Planning Department Resubmittal

BUNDY-FINKEL Architects

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P. 714-850-7575 F. 714-850-7576

Alley



- LARGE ACCENT SUCCULENT
Agave attenuata 'Variegata' - Variegated Agave
- LOW SHRUB MASS (TYP.)
Rhaphiolepis indica 'Ballerna' - India Hawthorn
- FORMAL GRASS PLANTING (TYP.)
Festuca glauca 'Blue Select' - Blue Fescue
- ACCENT TREE (TYP.)
Lagerstroemia indica 'Muskogee' - Crape Myrtle
- ENRICHED PAVING (TYP.)
- CONCRETE BENCH

- SUCCULENT ACCENT
Aloe striata - Coral Aloe
- STREET TREE
Parkinsonia 'Desert Museum' - Palo Verde
- LARGE GRASS TYPE PLANTING (TYP.)
Muhlenbergia capillaris - Pink Muhly Grass
- BARK MULCH (TYP.)
- FOUNDATION SHRUB PLANTING (TYP.)
Olea europaea 'Little Ollie' - Shrub Olive



Lagerstroemia indica 'Muskogee'



Rhaphiolepis indica 'Ballerna'



Festuca glauca 'Blue Select'



Agave attenuata 'Variegata'



Aloe striata



Muhlenbergia capillaris



Olea europaea 'Little Ollie'

LOW SPREADING SHRUB MASSING (TYP.)
Carissa Grandiflora 'Green Carpet'

ORNAMENTAL GRASS MASSING (TYP.)
Festuca mairei - Atlas Fescue

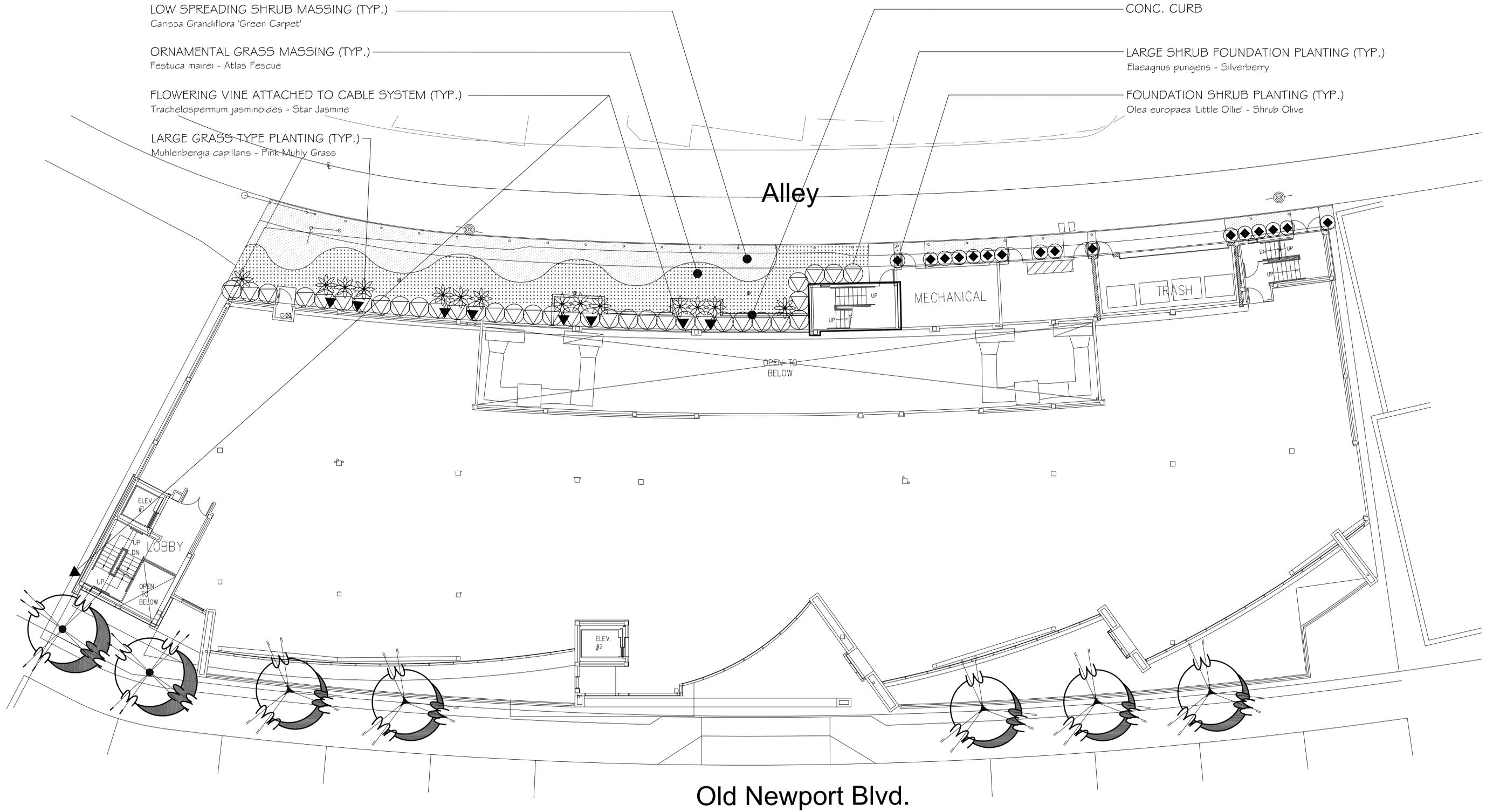
FLOWERING VINE ATTACHED TO CABLE SYSTEM (TYP.)
Trachelospermum jasminoides - Star Jasmine

LARGE GRASS TYPE PLANTING (TYP.)
Muhlenbergia capillans - Pink Muhly Grass

CONC. CURB

LARGE SHRUB FOUNDATION PLANTING (TYP.)
Elaeagnus pungens - Silverberry

FOUNDATION SHRUB PLANTING (TYP.)
Olea europaea 'Little Ollie' - Shrub Olive



Carissa Grandiflora 'Green Carpet'



Festuca mairei



Muhlenbergia capillans



Elaeagnus pungens



Olea europaea 'Little Ollie'



Trachelospermum jasminoides