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Chapter 21.10 – Purpose and Applicability of the Implementation Plan

Sections:

21.10.010 Title
21.10.020 Purpose
21.10.030 Authority, Relationship to the Coastal Land Use Plan
21.10.040 Applicability of Implementation Plan
21.10.050 Responsibility for Administration
21.10.065 Periodic Review and Update

21.10.010 – Title

This title shall be known as the "City of Newport Beach Local Coastal Program Implementation Plan" and referred to as the "Implementation Plan"

21.10.020 – Purpose

The purposes of the Implementation Plan are to:

A. Implement the policies of the ~~Local~~ Coastal ~~Program~~ Land Use Plan and the California Coastal Act of 1976;

B. Protect, maintain, enhance and restore the overall quality of the Coastal Zone environment and its natural and artificial resources;

C. Assure orderly, balanced use and conservation of resources within the Coastal Zone taking into account social and economic needs;

D. Maximize public access to and along the coast and maximize public recreational opportunities in the Coastal Zone consistent with sound resource conservation principals and constitutionally protected rights of private property owners;

E. Assure priority for coastal-dependent and coastal-related development over other types of development ~~in the Coastal Zone; and~~ on the coast;

F. Encourage state and local cooperation in planning and development of mutually beneficial uses in the Coastal Zone~~.~~; and

G. To ensure that any development in the coastal zone preserves and enhances coastal resources; protects and enhances coastal views and access; and ensure that growth, development, and environmental management is conducted a manner consistent with the provisions of the Coastal Land Use Plan.

21.10.030 – Authority, Relationship to Coastal Land Use Plan

A. **Authority.** This Implementation Plan is adopted pursuant to the authority contained in Section 65850 et seq. of the California Government Code, Division 20 of the Public Resources Code (California Coastal Act), and Title 14, Division 5.5 of the California Code of Regulations (California Coastal Commission Regulations).

B. **Relationship to Coastal Land Use Plan.** This Implementation Plan is the primary tool used by the City to carry out the goals, objectives, and policies of the Coastal Land Use Plan. It is intended that all provisions of this Implementation Plan be consistent with the Coastal Land Use Plan and that any development, land use, or subdivision approved in compliance with these regulations will also be consistent with the Coastal Land Use Plan, and if the proposed development is located between the first public road and the sea or the shoreline of any body of water located within the coastal zone, any approved development must be in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act.

C. **Relationship to General Plan.** Should a conflict exist between the ~~development limits~~ policies ~~of the Land Use Element~~ set forth in any element of the City's General Plan, zoning, or any other ordinance and those of the Coastal Land Use Plan, the ~~provision that is most protective of coastal resources~~ policies of the Coastal Land Use Plan shall take precedence. However, in no case, shall the policies of the Coastal Land Use Plan be interpreted to allow a development to exceed a development limit established by the General Plan or its implementing ordinances.

21.10.040 – Applicability of Implementation Plan

The regulations of this Implementation Plan shall apply to all development of land and water in the Coastal Zone within the City of Newport Beach, hereafter referred to as the "City," and its sphere of influence, with the exception of Newport Coast ~~and~~ uncertified areas, deferred certification areas and original permit jurisdiction areas ~~established by the Coastal Land Use Plan~~ depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map adopted pursuant to Coastal Act Section 30519. ~~The Newport Coast segment is governed by the Newport Coast Local Coastal Program and is subject only to the administrative regulations relating to the review of coastal development permits.~~

21.10.050 – Responsibility for Administration

A. **Responsible Authority.** This Implementation Plan shall be administered by: Newport Beach City Council, hereafter referred to as the "Council"; the Planning Commission, hereafter referred to as the "Commission"; the Community Development Director, hereafter referred to as the "Director"; the Zoning Administrator; and the Community Development Department hereafter referred to as the "Department," and any other City official or body as specifically identified in this Implementation Plan and the Coastal Commission on appeals of City decisions, resolutions of disputes, and any other matters where the Coastal Commission has authority pursuant to the Coastal Act.

~~B. Exercise of Discretion. In the event that a provision of this Implementation Plan or a condition of approval allows the review authority to exercise judgment in the application of~~

~~a specific development standard or condition of approval, the review shall include an analysis as to whether:~~

~~1. The proposed project complies with all applicable provisions of this Implementation Plan;~~

~~2. The exercise of authority will act to ensure the compatibility of the proposed project with its site and surrounding properties;~~

~~3. The manner in which authority is exercised will result in a more practical application of the provisions of this Implementation Plan given specific characteristics of the site and its surroundings; and~~

~~4. The decision is consistent with the Coastal Land Use Plan.~~

21.10.065 – Periodic Review and Update

The ~~Coastal Land Use Plan and the land use, development, and administrative regulations of this Implementation Plan~~ Local Coastal Program shall be periodically reviewed and updated to insure ~~that the Local Coastal Program is being effectively implemented in~~ conformity with the policies of the Coastal Act. This review shall be conducted in conjunction with the Coastal Commission's periodic review of the Local Coastal Program required by Coastal Act Section 30519.5.

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Chapter 21.12 – Interpretation of Implementation Plan Provisions

Sections:

21.12.010 Purpose
21.12.020 Rules of Interpretation

21.12.010 – Purpose

This chapter provides rules for resolving questions about the meaning or applicability of any part of this Implementation Plan. The provisions of this chapter are intended to ensure the consistent interpretation and application of the requirements of this Implementation Plan.

21.12.020 – Rules of Interpretation

A. **Authority.** The Director has the authority to interpret the meaning of provisions of this Implementation Plan, including maps, and to apply and/or enforce the Implementation Plan. The Director may also refer any interpretation to the Commission for input or a determination. An interpretation made by the Director may be appealed or called for review to the Commission in compliance with Chapter 21.64 (Appeals and Calls for Review).

B. **Language.** When used in this Implementation Plan, the words "shall," "must," "will," "is to," and "are to" are always mandatory. "Should" is not mandatory, but is strongly recommended, and "may" is permissive. The present tense includes the past and future tenses; and the future tense includes the present. The singular number includes the plural number, and the plural the singular, unless the common meaning of the word indicates otherwise. The words "includes" and "including" shall mean "including, but not limited to."

C. **Calculations.**

1. **Residential Density.** When the number of dwelling units allowed on a site is calculated based on the minimum site area per dwelling unit, any fraction of a unit shall be rounded down to the next lowest whole number. For example, where a residential coastal zoning district requires a minimum site area per dwelling unit of one thousand five hundred (1,500) square feet; a site of ten thousand (10,000) square feet would be allowed six dwelling units.

   Example: Ten thousand (10,000) sq. ft. site area/one thousand five hundred (1,500) sq. ft. per unit = 6.66 dwelling units. This would be rounded down to six dwelling units.

2. **Other Calculations.** For calculations other than residential density, the fractional/decimal results of calculations shall be rounded to the next highest whole number unless otherwise specified.

3. **Time Limits.** Whenever a number of days is specified in this Implementation Plan, or in a permit, condition of approval, or notice provided in compliance with this Implementation Plan, the number of days shall be construed as calendar days unless otherwise specified. Where the last of the specified number of days falls on a weekend, holiday, or other day the City is not open for business, the time limit shall extend to 5:00 p.m. on the following business day.

D. **Conflicting Requirements.** Where conflict occurs between the provisions of this Implementation Plan and any other City Code, title, chapter, resolution, guideline, or regulation, the ~~more restrictive provision shall control unless otherwise specified in~~ Coastal Land Use Plan and this Implementation Plan shall control ~~or unless the more restrictive provision is less protective of coastal resources~~.

E. **Unlisted Uses of Land.** If a proposed use of land is not specifically listed in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards), the use shall not be allowed, except as provided below.

1. **Director's Interpretation.** The Director may determine that a proposed land use that is not listed in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be allowed if the following findings can be made:

   a. The characteristics of, and activities associated with, the proposed use are equivalent to those of one or more of the uses listed in the coastal zoning district as allowable, and will not involve a greater level of activity, population density, intensity, traffic generation, parking, dust, odor, noise, or similar impacts than the uses listed in the coastal zoning district;

   b. The proposed use will meet the purpose/intent of the coastal zoning district that is applied to the location of the use;

   c. The proposed use will be consistent with the goals, objectives, and policies of the Coastal Land Use Plan;

   d. The proposed use is not listed as allowable in another coastal zoning district; and

   e. The proposed use is not a prohibited or illegal use.

2. **Applicable Standards and Permit Requirements.** When the Director determines that a proposed but unlisted land use is equivalent to a listed use, the proposed use will be treated in the same manner as the listed use in determining where the use is allowed, what permits are required, and what other standards and requirements of this Implementation Plan apply.

F. **Coastal Zoning Map Boundaries.** If there is uncertainty about the location of a coastal zoning district boundary shown on the official Coastal Zoning Map, the Director shall determine the location of the coastal zoning district boundary in the following manner:

~~1.~~ ~~Where the Coastal Zone boundary follows a street or alley, the boundary of the Coastal Zone shall be construed as the inland boundary of the improved~~

~~right-of-way as it exists as of January 1, 1977, or as modified by closure or additional improvement thereafter provided that it shall not be more than 100 yards inland from the center line.~~

2. Where a district or area boundary approximately follows a lot line, street or alley line, the lot line, street centerline, or alley centerline shall be construed as the district boundary;

3. Where a district or area boundary divides a lot and the boundary line location is not specified by distances indicated on the subject map, the location of the boundary shall be determined by using the scale appearing on the map;

3. Where a public street or alley, or a portion thereof, is officially vacated or abandoned, the property that was formerly in the street or alley shall be included within the coastal zoning district of the adjoining property on either side of the centerline of the vacated or abandoned street or alley;

4. Where a district or area boundary approximately follows the shoreline of the Pacific Ocean, the boundary shall be construed to follow the mean high tide line; or

5. Where a district or area boundary approximately follows the waterfront of Newport Bay, the boundary shall be construed to follow the bulkhead line.

~~G.~~ ~~**Permit and Appeal Jurisdiction Map boundaries.** If there is uncertainty about the location of a boundary shown on the Permit and Appeal Jurisdiction Map, or if the boundary bisects a lot, the Director shall proceed as follows:~~

~~1. If the uncertainty involves the specific location of a boundary line, the Director shall use any of the methods provided in Subsection F, above, provided the determination would not adjust the boundary line onto or out of any portion of an existing lot;~~

~~2. If a boundary line bisects any portion of a lot, the entire lot shall be determined to be within the boundary of the mapped area; or~~

~~3. In order to avoid bisecting a lot or to conform a boundary to readily identifiable natural or manmade features, the City may request the Coastal Commission to adjust the boundary of the Coastal Zone up to a maximum of 100 yards inland, or a maximum of 200 yards seaward. Where an inland adjustment is requested by the City and agreed to by the property owner, the maximum distance shall be 200 yards.~~

H. **Illustrations.** In case of a conflict between the Implementation Plan text and any diagram, illustration, or image contained in the Implementation Plan, the text shall control.

I. **Guidelines.** Guidelines augment and expand on the policies and regulations of the Local Coastal Program. Guidelines are not quantitative standards and are therefore subject to interpretation.

J. **Use of Headings.** The headings of the chapters, sections, and subsections of this Implementation Plan, together with the accompanying examples and explanatory notes,

are inserted as a matter of convenience and are not intended to define, limit, or enlarge the scope or meaning of this Implementation Plan or its provisions.

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Chapter 21.14 – Coastal Maps

Sections:

21.14.010 Coastal Zoning Map ~~Adopted by Reference~~
21.14.020 Coastal Zoning Districts Established
21.14.030 Coastal Zoning District Symbols
21.14.045 Post-LCP Certification Permit and Appeal Jurisdiction Map

21.14.010 – Coastal Zoning Map ~~Adopted by Reference~~

The boundaries, designations, and locations of the coastal zoning districts established by this Implementation Plan shall be shown upon the map(s) entitled "Coastal Zoning Map for the City of Newport Beach, California" and referred to as the "Coastal Zoning Map." Any changes to an IP map, except for boundary changes to the Coastal Zone Boundary Map or the Post-LCP Certification Permit and Appeal Jurisdiction Map, shall be adopted through an IP amendment. ~~Any additional maps as may be subsequently adopted or amended shall also be a part of this Implementation Plan by reference.~~

21.14.020 – Coastal Zoning Districts Established

The City of Newport Beach shall be divided into coastal zoning districts that implement the Coastal Land Use Plan. The coastal zoning districts shown in Table 21.14-1 are hereby established, and shall be shown on the Coastal Zoning Map.

TABLE 21.14-1
COASTAL ZONING DISTRICTS

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
Residential Coastal Zoning Districts			
R-A R-1 R-1-6,000	Single-Unit Residential Detached	RS-D	Single-Unit Residential Detached Single-Unit Residential Attached
R-BI R-2 R-2-6,000	Two-Unit Residential	RT	Two-Unit Residential
RM RM-6,000	Multi-Unit Residential	RM	Multiple-Unit Residential
Commercial Coastal Zoning Districts			

Coastal Zoning Map Symbol	Coastal Zoning Districts	Coastal Land Use Plan Designations Implemented by Zoning Districts	
OG	Office—General Commercial	CO-G	General Commercial Office
CC	Commercial Corridor	CC	Corridor Commercial
CG	Commercial General	CG	General Commercial
CM	Commercial Recreational and Marine	CM	Recreational and Marine Commercial
CN	Commercial Neighborhood	CN	Neighborhood Commercial
CV	Commercial Visitor-Serving	CV	Visitor-Serving Commercial
CV-LV	Commercial Visitor-Serving, Lido Village	CV-LV	Visitor-Serving Commercial—Lido Village
Mixed-Use Coastal Zoning Districts			
MU-V	Mixed-Use Vertical	MU-V	Mixed-Use Vertical
MU-MM MU-CV/15th Street	Mixed-Use	MU-H	Mixed-Use
MU-W1 MU-W2	Mixed-Use Water	MU-W	Mixed-Use Water-Related
Special Purpose Coastal Zoning Districts			
OS	Open Space	OS	Open Space
PC	Planned Community	All designations	
PF	Public Facilities	PF	Public Facilities
PI	Private Institutions	PI	Private Institutions
PR	Parks and Recreation	PR	Parks and Recreation
TS	Tidelands and Submerged Lands	TS	Tidelands and Submerged Lands
Overlay Coastal Zoning Districts			
MHP	Mobile Home Park	RM	Multiple-Unit Residential
PM	Parking Management	All designations	
B	Bluff	All designations	
C	Canyon	RS, RM	Single-Unit Residential Multiple-Unit Residential
H	Height	RM	Multiple-Unit Residential

21.14.030 – Coastal Zoning District Symbols

In addition to the coastal zoning district designations established under Section 21.14.020 (Coastal Zoning Districts Established) and the related development standards established in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards), symbols are established on the Coastal Zoning Map for the purpose of

designating floor area ratio limits for nonresidential uses and density limits or the actual number of allowed units for residential uses. When these symbols are placed on the Coastal Zoning Map, the floor area ratios, dwelling unit limits or residential densities (minimums and maximums) as indicated shall apply. In addition, individual locations/sites/lots are identified on the Coastal Zoning Map by a number symbol where specific development limits and restrictions apply. These development limits/restrictions shall apply in addition to those provided in Part 2 of this title (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards). The symbols and limits shall be shown in the following manner:

A. **Nonresidential Districts.** A number following the district symbol shall designate the maximum floor area ratio allowed for the nonresidential area designated.

Example: CG 0.5

B. **Residential Districts.**

1. A number following the district symbol designates the minimum site area required per dwelling unit if the requirement differs from the district standard minimum.

Example: RM (2178)

2. Two numbers following the district symbol indicates that both the minimum and maximum number of dwelling units are regulated. The first number designates the site area used to calculate the minimum number of units required. The second number designates the site area to be used to calculate the maximum number of dwelling units allowed.

Example: RM (3100/2420)

3. A number followed by the DU symbol indicates the maximum number of dwelling units allowed for the area designated. Where two numbers are shown, the first represents the maximum number of units allowed, the second represents the minimum number of units required.

Examples: RM 50 DU

RM 388/300 DU

C. **Mixed-Use Districts.** Allowed residential densities and floor area ratios for nonresidential structures in mixed-use districts are not indicated on the Coastal Zoning Map, but are provided in the development standards tables for mixed-use districts in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards).

D. **Planned Communities (PC).** Each PC District shall be shown on the Coastal Zoning Map with a “PC” designator along with a sequential reference number.

21.14.045 – Post-LCP Certification Permit and Appeal Jurisdiction Map

The boundaries of the Commission's ~~Coastal Zone,~~ permit jurisdiction areas, appeals areas, ~~exclusion areas,~~ deferred certification areas, and ~~other coastal-related areas within the Coastal Zone in the City of Newport Beach~~ public trust lands where permit authority may be delegated to the City pursuant to Coastal Act Section 30613 shall be shown upon the map(s) entitled "Post-LCP Certification Permit and Appeal Jurisdiction ~~Map~~" produced by Coastal Commission.

~~**Coastal Zone.** The Coastal Zone boundary shall be as established by the Coastal Act, including any adjustments to the boundary made by the Coastal Commission pursuant to California Public Resources Code Section 30103(b).~~

~~**Coastal Commission Permit Jurisdiction**. The boundaries of tidelands, submerged lands, and public trust lands described in Section 30519 (b) of the Public Resources Code where the Coastal Commission retains permit jurisdiction.~~

~~**Appeal Area.** The boundary of the area where actions by the City on coastal development permit applications may be appealed to the Coastal Commission shall be established pursuant to California Public Resources Code Section 30603, including any adjustments to the boundary made by the Coastal Commission pursuant to California Public Resources Code Section 30603.1.~~

~~**Exclusion Areas.** The boundaries of the areas where a category of development, or a category of development within a specifically defined geographic area, is excluded from the coastal development permit requirements pursuant to Public Resources Code Section 30610 shall be established by the terms and conditions applied to each categorical exclusion order by the Coastal Commission.~~

~~**Deferred Certification Areas.** The boundaries of deferred certification areas shall be established by the Coastal Land Use Plan.~~

~~**Public Trust Lands Delegated to the City.** The boundaries tidelands, submerged lands, and public trust lands where permit authority has been be delegated to the City pursuant to Coastal Act Section 30613.~~

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.16 – Development and Land Use Approval Requirements

Sections:

21.16.010 Purpose
21.16.020 General Requirements for Development and New Land Uses
~~21.16.030 Allowable Land Uses~~
21.16.040 ~~Short-Term~~ Temporary Uses and Structures
21.16.050 Special Events
21.16.060 Additional Permits and Approvals May Be Required

21.16.010 – Purpose

The purpose of this part is to provide the general requirements of this Implementation Plan for the approval of proposed development and land use activities. Land use requirements for specific land uses are established by this Part 2 and Part 3 (Site Planning and Development Standards) and Part 4 of this Implementation Plan (Standards for Specific Land Uses). Land use and development approval and administrative provisions are established by Part 5 (Planning Permit Procedures) and Part 6 of this Implementation Plan (Implementation Plan Administration).

21.16.020 – General Requirements for New Development ~~and New Land Uses~~

No new development (i.e., use of land demolition, alteration, construction, expansion, reconstruction, or replacement of structures)~~or structures~~ shall be allowed~~, altered, constructed, established, expanded, reconstructed, or replaced~~ unless the ~~use of land or structures comply~~ development complies with this Implementation Plan and the requirements of this chapter.

A. **Allowable Use.** The land use shall be identified by Chapter 21.18 (Residential Coastal Zoning Districts), 21.20 (Commercial Coastal Zoning Districts), 21.22 (Mixed-Use Coastal Zoning Districts), ~~21.24 (Industrial Coastal Zoning Districts),~~ 21.26 (Special Purpose Coastal Zoning Districts), or 21.28 (Overlay Coastal Zoning Districts) as being allowable in the coastal zoning district applied to a site.

B. **Coastal Development Permit Requirements.** Coastal Development Permits required by this Implementation Plan shall be obtained before the proposed use is commenced or the ~~project~~ development is constructed and any activities associated with the use are commenced, or otherwise established or put into operation.

C. **Development Standards.** Uses and/or structures shall comply with all applicable development standards of this part, the provisions of Part 3 (Site Planning and General Development Standards) and Part 4 of this Implementation Plan (Standards for Specific Land Uses), and other adopted criteria, guidelines, and policies adopted by the City related to the use and development of land.

D. **Conditions of Approval.** Uses and/or structures shall comply with all conditions imposed by a ~~previous~~ coastal development permit and other regulatory approvals. Failure to comply with imposed conditions shall be grounds for ~~revocation of the permit~~ an enforcement action in compliance with Chapter 21.68 (Enforcement).

E. **Reasonable Accommodations.** The review authority may grant reasonable accommodations (adjustments) to the City's coastal zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Federal and State fair housing laws. A request for reasonable accommodation requiring a coastal development permit may be approved or conditionally approved by the City if it is consistent with the certified Local Coastal Program and the California Coastal Act to the extent feasible, and there are no feasible alternatives for providing an accommodation at the dwelling that would provide greater consistency with the certified Local Coastal Program.

G. **Nonconforming Uses and Structures.** Uses and structures that are determined to be nonconforming as to the requirements of this Implementation Plan shall be subject to the requirements and limitations of Chapter 21.38 (Nonconforming Uses and Structures).

~~**21.16.030 – Allowable Land Uses**~~

~~Allowed land uses are permitted or conditionally permitted subject to compliance with all applicable provisions of this implementation plan. These are shown as "A" uses in the tables.~~

~~**21.16.040 – Short-term Temporary Uses and Structures**~~

~~Requirements for establishing a short-term use or structure (e.g., construction yards, seasonal sales lots, temporary office trailers, etc.) are identified in Section 21.48.105 (Limited Duration Uses and Structures).~~

~~**21.16.050 – Special Events**~~

~~Requirements for holding a special event are identified in Section 21.48.095 (Special Events).~~

21.16.060 – Additional Permits and Approvals May Be Required

A. **Other Permits Required.** An allowed land use or structure that is exempt from a coastal development permit, or has been granted a coastal development permit, may still be required to obtain other permits before the use is commenced or the structure is constructed and any activities associated with the use are commenced, or otherwise established or put into operation. Nothing in this section shall eliminate the need to obtain any permits or approvals required by:

1. Other provisions of the Municipal Code (e.g., conditional use permits, minor use permits, limited term permits, site development review, zoning clearances, building permits, grading permits, other construction permits, live entertainment permit, or a business license); or

2. Orange County, a special district, or any regional, State, or Federal agency.

B. **Timing of Other Permits.** No ~~land shall be used, no new use shall be established, and no structure~~ new development (i.e., use of land demolition, alteration, construction, expansion, reconstruction or replacement of structures) shall be commenced until all necessary permits have been obtained.

C. **Report of Residential Building Records.** The owner of any residential building shall obtain from the City a report of the residential building records upon entering into an agreement of sale. The owner shall file an application for such a report not later than three days after entering into an agreement of sale.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

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Chapter 21.18 – Residential Coastal Zoning Districts (R-A, R-1, R-BI, R-2, and RM)

Sections:

21.18.010 Purposes of Residential Coastal Zoning Districts
21.18.020 Residential Coastal Zoning Districts Land Uses
21.18.030 Residential Coastal Zoning Districts General Development Standards

21.18.010 – Purposes of Residential Coastal Zoning Districts

The purposes of the individual residential coastal zoning districts and the manner in which they are applied are as follows:

A. **R-A (Residential-Agricultural) Coastal Zoning District.** The R-A Coastal Zoning District is intended to provide for areas appropriate for detached single-family residential dwelling units and light farming uses, each located on a single legal lot~~;~~ and does not include condominiums or cooperative housing.

B. **R-1 (Single-Unit Residential) Coastal Zoning District.** The R-1 Coastal Zoning District is intended to provide for areas appropriate for a range of detached single-family residential dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing.

C. **R-BI (Two-Unit Residential, Balboa Island) Coastal Zoning District.** The R-BI Coastal Zoning District is intended to provide for a maximum of two residential dwelling units (i.e., duplexes) located on a single legal lot on Balboa Island.

D. **R-2 (Two-Unit Residential) Coastal Zoning District.** The R-2 Coastal Zoning District is intended to provide for areas appropriate for a maximum of two residential dwelling units (i.e., duplexes) located on a single legal lot.

E. **RM (Multiple Residential) Coastal Zoning District.** The RM Coastal Zoning District is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units.

21.18.020 – Residential Coastal Zoning Districts Land Uses

A. **Allowed Land Uses**

1. Table 21.18-1 indicates the uses allowed within each residential coastal zoning district.

2. Residential uses represent the primary allowed use, and only those additional uses that are complementary to, and can exist in harmony with, the residential character of each coastal zoning district may be allowed as accessory, conditionally permitted, and/or temporary uses.

B. Prohibited Land Uses. A table cell with "—" means that the listed land use is prohibited in that coastal zoning district.

C. Applicable Regulations. The last column in the table ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 21.18-1 ALLOWED USES	**Residential Coastal Zoning Districts A Allowed — Not Allowed ***				
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	**R-A**	**R-1 R-1-6,000**	**R-BI R-2 R-2-6,000**	**RM RM-6,000**	**Specific Use Regulations**
Residential Uses					
Home Occupations	A	A	A	A	
Single-Unit Dwellings—Attached	—	—	A	A	
Single-Unit Dwellings—Detached	A	A	A	A	
Multi-Unit Dwellings	—	—	—	A	
Two-Unit Dwellings	—	—	A	A	
Accessory Dwelling Units	A	A	—	—	
Visitor Accommodations, Residential					
Bed and Breakfast Inns	—	—	A	A	
Short-Term Lodging	—	—	A	A	
Care Uses					
Adult Day Care					
Small (6 or fewer)	A	A	A	A	
Large (7 to 14)	A	A	A	A	
Child Day Care					
Small (8 or fewer)	A	A	A	A	
Large (9 to 14)	A	A	A	A	
Day Care, General	—	—	A	A	
Residential Care Facilities					
Limited (6 or fewer) Licensed	A	A	A	A	
Limited (6 or fewer) Unlicensed	—	—	—	A	
General (7 or more) Licensed	—	—	—	A	
General (7 or more) Unlicensed	—	—	—	A	
Integral Facilities/Integral Uses	—	—	—	A	
Parolee-Probationer Home	—	—	—	—	
Other Uses					

TABLE 21.18-1 ALLOWED USES	Residential Coastal Zoning Districts A Allowed — Not Allowed *				
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**R-A**	**R-1** **R-1-6,000**	**R-BI** **R-2** **R-2-6,000**	**RM** **RM-6,000**	**Specific Use Regulations**
Parking Facility	A	A	A	A	
Convalescent Facilities	—	—	—	A	
Utilities, Minor	A	A	A	A	
Utilities, Major	A	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	Chapter 21.49
Accessory Structures and Uses	A	A	A	A	
Animal-Keeping					
Animal, Domestic Farm	A	—	—	—	
Animal, Domestic Pet	A	A	A	A	
Animal, Wild	A	A	A	A	
Personal Property Sales	A	A	A	A	
Special Events	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	~~Section 21.48.105~~
* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as provided by Chapter 21.12 (Interpretation of Implementation Plan Provisions).					

21.18.030 – Residential Coastal Zoning Districts General Development Standards

New development (i.e., new land uses and structures and alterations to existing land uses and structures), shall be designed, constructed, and/or established in compliance with the requirements in Tables 21.18-2, 21.18-3, and 21.18-4 in addition to the development standards in Part 3 of this Implementation Plan (Site Planning and Development Standards).

TABLE 21.18-2
DEVELOPMENT STANDARDS FOR SINGLE-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	R-A	R-1	R-1-6,000	Additional Requirements
Lot Dimensions	Minimum dimensions required for each newly created lot.			
Lot Area (1)				
Corner lot	87,120 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	87,120 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	125 ft.	60 ft.	60 ft.	
Interior lot	125 ft.	50 ft.	60 ft.	

Development Feature	R-A	R-1	R-1-6,000	Additional Requirements
Lot Depth	N/A	N/A	80 ft.	
Density/Intensity	*Each legal lot shall be allowed one single-unit detached dwelling.*			
Setbacks	*The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this Implementation Plan.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures.*			
Front:	20 ft.	20 ft.	20 ft.	Section 21.30.110
Side (interior, each):				
Lots 40 ft. wide or less	5 ft.	3 ft. (3)	6 ft.	Section 21.30.110
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	5 ft.	3 ft.	6 ft.	Section 21.30.110
Lots wider than 40 ft.	5 ft.	4 ft.	6 ft.	
Rear:	25 ft.	10 ft.	6 ft.	
Abutting Alley:				
10 ft. wide or less	N/A	5 ft.	N/A	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting an alley shall provide a setback for the first floor of at least 10 ft. from the alley.
15 ft. wide or less	N/A	5 ft.	N/A	
15'1" to 19'11"	N/A	3'9"	N/A	
20 ft. wide or more	N/A	0	N/A	
Bluff edge setback	*As provided in Section 21.28.040 (Bluff (B) Overlay District).*			
Canyon face setback	*As provided in Section 21.28.050 (Canyon(C) Overlay District).*			
Bulkhead setback	*Structures shall be set back a minimum of 10 ft. from the bulkhead in each coastal zoning district.*			
Waterfront lots	*Setbacks on waterfront lots may be increased to avoid coastal hazards through the approval of a coastal development permit. See Section 21.30.015 (D) Waterfront Development and 21.30.015 (E) Development in Shoreline Hazardous Areas.*			
Site Coverage	*Maximum percentage of the total lot area that may be covered by structures.*			
Lots 40 ft. wide or less	N/A	N/A	60%	
Lots wider than 40 ft.	40%	N/A	60%	
Floor Area Limit (gross floor area)	N/A	2.0 (4)(5)	N/A	
Citywide				
Corona del Mar		1.5 (4)(5)		
Height (2)	*Maximum height of structures without discretionary approval. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit*.			
Flat roof	24 ft.	24 ft.	24 ft.	See 21.30.060(C)(2) (Height Limit Areas) and 21.30.060(B) (Height of Structures and Measurement)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	*See Section 21.28.040 (Bluff (B) Overlay District).*			
Canyons	*See Section 21.28.050 (Canyon (C) Overlay District).*			

Development Feature	R-A	R-1	R-1-6,000	Additional Requirements
Fencing	*See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).*			
Landscaping	*See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)*			
Lighting	*See Section 21.30.070 (Outdoor Lighting).*			
Parking	*See Chapter 21.40 (Off-Street Parking).*			
Signs	*See Section 21.30.065 (Signs).*			

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).

(2) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot.

(3) Side setback areas for lots designated Special Fire Protection Areas shall be a minimum of five feet unless reduced by the Fire Marshal.

(4) The floor area of a subterranean basement is not included in the calculation of total gross floor area.

(5) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.

TABLE 21.18-3
DEVELOPMENT STANDARDS FOR TWO-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	R-BI	R-2	R-2-6,000	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each newly created lot.*			
Lot Area (1) (2)				
Corner lot	2,375 sq. ft.	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	2,375 sq. ft.	5,000 sq. ft.	6,000 sq. ft.	
Lot Width				
Corner lot	60 ft.	60 ft.	60 ft.	
Interior lot	50 ft.	50 ft.	60 ft.	
Lot Depth	N/A	N/A	80 ft.	
Site Area per Dwelling Unit	*Minimum required site area per dwelling unit based on net area of the lot.*			
	1,000 sq. ft.	1,000 sq. ft.	3,000 sq. ft.	
	No more than 2 units per lot			
Site Coverage	*Maximum percentage of the total lot area that may be covered by structures.*			
	N/A	N/A	60%	
Floor Area Limit (4) (gross floor area)	1.5 plus 200 sq. ft.	2.0 Citywide (5) 1.5 Corona del Mar (5)	N/A	
Setbacks	*The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this Implementation Plan.) Side and rear setback areas*			

Development Feature	R-BI	R-2	R-2-6,000	Additional Requirements
	shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures.			
Front:	20 ft.	20 ft.	20 ft.	
Side (interior, each):				
Lots 40 ft. wide or less	3 ft.	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	6 ft.	
Lots 50 ft. wide and greater	N/A	4 ft.	6 ft.	
Side (street side):				
Lots 40 ft. wide or less	3 ft.	3 ft.	N/A	
Lots 40'1" wide to 49'11" wide	4 ft.	4 ft.	N/A	
Lots 50 ft. wide and greater	N/A	N/A	6 ft.	
Rear:	10 ft.	10 ft.	6 ft.	
Abutting Alley				Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
10 ft. wide or less	5 ft.	5 ft.	N/A	
15 ft. wide or less	5 ft.	5 ft.	N/A	
15'1" to 19'11"	3'9"	3'9"	N/A	
20 ft. wide or more	0	0	N/A	
Waterfront	10 ft.	10 ft.	N/A	
Bluff edge setback	*As provided in Section 21.28.040 (Bluff (B) Overlay District).*			
Canyon face setback	*See Section 21.28.050 (Canyon (C) Overlay District).*			
Bulkhead setback	*Structures shall be set back a minimum of 10 ft. from the bulkhead in each coastal zoning district.*			
Waterfront lots	*Setbacks on waterfront lots may be increased to avoid coastal hazards through the approval of a coastal development permit. See Section 21.30.015 (D) Waterfront Development and 21.30.015(E) Development in Shoreline Hazardous Areas.*			
Height (3)	*Maximum height of structures without discretionary approval. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.*			
Flat roof	24 ft.	24 ft.	24 ft.	See Section 21.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	29 ft.	29 ft.	29 ft.	
Bluffs	*Section 21.28.040 (Bluff (B) Overlay District).*			
Canyons	*See Section 21.28.050 (Canyon(C) Overlay District).*			
Fencing	*See Section 21.30.040 (Fences, Hedges, Walls and Retaining Walls).*			
Landscaping	*See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)*			
Lighting	*See Section 21.30.070 (Outdoor Lighting).*			
Parking	*See Chapter 21.40 (Off-Street Parking).*			
Signs	*See Section 21.30.065 (Signs).*			

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).

Development Feature	R-BI	R-2	R-2-6,000	Additional Requirements
(2) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit. (3) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot. (4) The floor area of a subterranean basement is not included in the calculation of total gross floor area. (5) The maximum gross floor area for a residential structure is determined by multiplying either 1.5 or 2.0 times the buildable area of the lot.				

TABLE 21.18-4
DEVELOPMENT STANDARDS FOR MULTI-UNIT RESIDENTIAL COASTAL ZONING DISTRICTS

Development Feature	RM	RM-6,000	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each newly created lot.*		
Lot Area (1) (2)			
Corner lot	6,000 sq. ft.	6,000 sq. ft.	
Interior lot	5,000 sq. ft.	6,000 sq. ft.	
Lot Width			
Corner lot	60 ft.	60 ft.	
Interior lot	50 ft.	60 ft.	
Lot Depth	N/A	80 ft.	
Site Area per Dwelling Unit (7)	*Minimum required site area per dwelling unit based on net area of the lot unless the maximum number of units is shown on the Coastal Zoning Map.*		
	1,200 sq. ft. (6)	1,500 sq. ft	.
Site Coverage	*Maximum percentage of the total lot area that may be covered by structures.*		
	N/A	60%	
Floor Area Limit (gross floor area)	1.75 (3)	N/A	
Setbacks	*The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions. The following setbacks shall apply, unless different requirements are identified on the setback maps in which case the setback maps shall control. (See Part 8 of this Implementation Plan.) Side and rear setback areas shown on the setback maps shall be considered front setback areas for the purpose of regulating accessory structures. Also refer to Section 21.48.180 (Residential Development Standards and Design Criteria).*		
Front:	20 ft.	20 ft.	
Side (interior, each):			
Lots 40 ft. wide or less	3 ft.	6 ft.	
Lots 40'1" wide to 49'11" wide	4 ft.	6 ft.	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Side (street side):		N/A	
Lots 40 ft. wide or less	3 ft.		

Development Feature	RM	RM-6,000	Additional Requirements
Lots 40'1" wide to 49'11" wide	4 ft.	N/A	
Lots 50 ft. wide and greater	8% of the average lot width (4)	6 ft.	
Rear:	10 ft.	6 ft.	
Abutting Alley			
10 ft. wide or less	N/A	N/A	Lots abutting a 10 ft. alley or less that are directly across the alley from the side yard of a lot abutting the alley shall provide a setback for the first floor of at least 10 ft. from the alley.
15 ft. wide or less	5 ft.	N/A	
15'1" to 19'11"	3'9"	N/A	
20 ft. wide or more	0	N/A	
Waterfront	10 ft.	N/A	
Bluff edge setback	*As provided in Section 21.28.040 (Bluff (B) Overlay District).*		
Canyon face setback	*As provided in Section 21.28.050 (Canyon (C) Overlay District).*		
Bulkhead setback	*Structures shall be set back a minimum of 10 ft. from the bulkhead in each coastal zoning district.*		
Waterfront lots	*Setbacks on waterfront lots may be increased to avoid coastal hazards through the approval of a coastal development permit. See Section 21.30.015 (D)Watefront Development and 21.30.015 (E) Development in Shoreline Hazardous Areas.*		
Height (5)	*Maximum height of structures without discretionary approval. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.*		
Flat roof	28 ft.	28 ft.	See Section 21.30.060(C) (Increase in Height Limit)
Sloped roof; minimum 3/12 pitch	33 ft.	33 ft.	
Open Space	*Minimum required open space.*		
	Common: 75 square feet/unit Minimum dimension shall be 15 feet. Private: 5% of the gross floor area for each unit.		
	Minimum dimension shall be 6 feet.		The minimum dimension is for length and width.
Bluffs	*See Section 21.28.040 (Bluff (B) Overlay District).*		
Canyons	*See Section 21.28.050 (Canyon (C) Overlay District).*		
Fencing	*See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).*		
Landscaping	*See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)*		
Lighting	*See Section 21.30.070 (Outdoor Lighting).*		
Parking	*See Chapter 21.40 (Off-Street Parking).*		
Signs	*See Section 21.30.065 (Signs).*		

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).

(2) On a site of less than five thousand (5,000) square feet that existed prior to March 10, 1976, a two-family dwelling may be constructed; provided, that there shall be not less than one thousand (1,000) square feet of land area for each dwelling unit.

(3) The total gross floor area contained in all buildings and structures on a development site shall not exceed 1.75 times the buildable area of the site or 1.5 times the buildable area of the site in Corona del Mar; provided, that up to two hundred (200) square feet of floor area per required parking

Development Feature	RM	RM-6,000	Additional Requirements
space devoted to enclosed parking shall not be included in calculations of total gross floor area. (4) Interior and street side setback areas are not required to be wider than fifteen (15) feet; however, the side setback area on the street side of a corner lot, where the abutting lot has a reversed frontage, shall not be less than the front setback area required on the abutting reversed frontage. (5) On the bluff side of Ocean Boulevard, the maximum height shall not exceed the elevation of the top of the curb abutting the lot. (6) Portions of legal lots that have a slope greater than two-to-one (2:1) or that are submerged lands or tidelands shall be excluded from the land area of the lot for the purpose of determining the allowable number of units. (7) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.			

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Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.20 – Commercial Coastal Zoning Districts (CC, CG, CM, CN, CV, CV-LV, OG)

Sections:

21.20.010 Purposes of Commercial Coastal Zoning Districts
21.20.020 Commercial Coastal Zoning Districts Land Uses
21.20.030 Commercial Coastal Zoning Districts General Development Standards

21.20.010 – Purposes of Commercial Coastal Zoning Districts

The purposes of the individual commercial coastal zoning districts and the manner in which they are applied are as follows:

A. **CC (Commercial Corridor) Coastal Zoning District.** The CC Coastal Zoning District is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.

B. **CG (Commercial General) Coastal Zoning District.** The CG Coastal Zoning District is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve Citywide or regional needs.

C. **CM (Commercial Recreational and Marine) Coastal Zoning District.** The CM Coastal Zoning District is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the bay on sites located on or near the bay.

D. **CN (Commercial Neighborhood) Coastal Zoning District**. The CN Coastal Zoning District is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area.

E. **CV (Commercial Visitor-Serving) Coastal Zoning District.** The CV Coastal Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City.

F. **OG (Office—General) Coastal Zoning District.** The OG Coastal Zoning District is intended to provide for areas appropriate for administrative, professional, and medical offices with limited accessory retail and service uses.

G. **CV-LV (Commercial Visitor-Serving—Lido Village) Zoning District.** This district applies to the former City Hall complex located at the northeast corner of the intersection of Newport Boulevard and 32nd Street. The CV-LV designation provides for a range of accommodations (e.g., hotels, motels, hostels), goods, and services

intended to primarily serve visitors to the City of Newport Beach and a fire station. Limited use overnight visitor accommodations and residential uses are not allowed.

21.20.020 – Commercial Coastal Zoning Districts Land Uses

A. **Allowed Land Uses.** Table 21.20-1 indicates the uses allowed within each coastal zoning district.

B. **Prohibited Land Uses.** Any table cell with "—" means that the listed land use is prohibited in that specific coastal zoning district.

C. **Applicable Regulations.** The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 21.20-1 ALLOWED USES	**Commercial Coastal Zoning Districts**							
	A – Allowed							
	– Not allowed *							
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**CC**	**CG**	**CM (3)**	**CN**	**CV (3)**	**CV-LV (3)**	**OG**	**Specific Use Regulations**
Industry, Manufacturing and Processing, and Warehousing Uses								
Handicraft Industry	A	A	A	A	A	A	—	
Research and Development, General	—	—	—	—	—	—	A	
Research and Development, Restricted	—	—	—	—	—	—	A	
Recreation, Education, and Public Assembly Uses								
Assembly/Meeting Facilities	A	A	A	A	A	A	A	
Commercial Recreation and Entertainment	A	A	A	A	A	A	—	
Cultural Institutions	A	A	A	—	A	—	—	
Schools, Public and Private	—	A	A	A	A	—	A	
Retail Trade Uses								
Alcohol Sales (off-sale)	A	A	A	A	A	A	A	
Alcohol Sales (off-sale), Accessory Only	A	A	A	A	A	A	A	
Bulk merchandise	—	A	—	A	—	—	—	
Marine Rentals and Sales								
Boat Rentals and Sales	—	A	A	—	A	A	—	
Marine Retail Sales	A	A	A	—	A	A	—	
Retail Sales	A	A	A	A	—	—	A (2)	
Retail Sales (less than 10,000 sq. ft.	A	A	A	A	~~A~~ —	—	A	

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts							
	A = Allowed – = Not allowed *							
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**CC**	**CG**	**CM (3)**	**CN**	**CV (3)**	**CV-LV (3)**	**OG**	**Specific Use Regulations**
Pharmacy, Medical Supplies	A	A	A	A	A	A	A	
Visitor-Serving Retail	A	—	—	—	A	A	—	
Service Uses—Business, Financial, Medical, and Professional								
ATM	A	A	A	A	A	A	A	
Convalescent Facilities	—	—	—	—	—	—	—	
Emergency Health Facility/Urgent Care	A (2)	A (2)	—	—	A (2)	A (3)	A	
Financial Institutions and Related Services	A	A	—	A	A	A	A	
Offices—Corporate	A (2)	A (2)	A (2)	A (2)	—	—	A	
Offices—Business	A	A	A	A	A		A	
Offices—Medical and Dental	A	A	—	A	A	—	A	
Offices—Professional	A (2)	A (2)	A (2)	A (2)	A (2)	—	A	
Outpatient Surgery Facility	A (2)	A (2)	A (2)	—	—	—	A	
Service Uses—General								
Ambulance Services	—	A	—	—	—	—	—	
Animal Sales and Services								
Animal Boarding/Kennels	A	A	—	A	—	—	—	
Animal Grooming	A	A	—	A	A	—	A	
Animal Retail Sales	A	A	—	A	A	—	—	
Veterinary Services	A	A	—	A	—	—	A	
Artists' Studios	A	A	A	A	A	A	A	
Catering Services	—	A	A	A	A	—	A	
Day Care, General	A	A	—	A	A	—	A	
Eating and Drinking Establishments								
Accessory Food Service (open to public)	A	A	A	A	A	A	A	
Fast Food	A	A	A	A	A	A	A	
Bars, Lounges, and Nightclubs	A	A	A	A	A	—	—	
Food Service	A	A	A	A	A	A	A	
Take-Out Service, Limited	A	A	A	A	A	A	A	

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts							
	A = Allowed – = Not allowed *							
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**CC**	**CG**	**CM (3)**	**CN**	**CV (3)**	**CV-LV (3)**	**OG**	**Specific Use Regulations**
Funeral Homes and Mortuaries, without crematorium	—	A	—	—	—	A	A	
Funeral Homes and Mortuaries, with crematorium	—	A	—	—	—	A	A	
Health/Fitness Facilities								
Small—2,000 sq. ft. or less	A	A	A	A	A	A	A	
Large—Over 2,000 sq. ft.	A	A	A	A	A	—	A	
Laboratories	—	A	—	—	—	—	A	
Maintenance and Repair Services	A	A	—	A	—	—	A	
Marine Services								
Boat Storage	—	—	A	—	—	—	—	
Boat Yards	—	—	A	—	—	—	—	
Entertainment and Excursion Services	—	—	A	—	A	A	—	
Marine Service Stations	—	—	A	—	A	—	—	
Water Transportation Services	—	—	A	—	A	—	—	
Massage Establishments	A	A	—	A	A	A	A	
Massage Services, Accessory	A	A	—	A	A	A	A	
Nail Salons	A	A	—	A	A	A	—	
Personal Services, General	A	A	—	A	A	A	A	
Personal Services, Restricted	A	A	—	A	A	—	A	
Studio	A	A	—	A	A	—	—	
Postal Services	A	A	—	A	A	—	A	
Printing and Duplicating Services	A	A	—	A	—	—	A	
Recycling Facilities								
Collection Facility—Small	A	A	—	A	—	—	—	
Visitor Accommodations								
Bed and Breakfast Inns	A	A	A	—	A	A	—	Section 21.48.025
Hotels and Motels	A	A	A	—	A	A	—	
RV Parks	—	—	—	—	A	—	—	
Time Share Facilities	—	A	—	—	A	—	—	

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts							
	A – Allowed – Not allowed *							
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**CC**	**CG**	**CM (3)**	**CN**	**CV (3)**	**CV-LV (3)**	**OG**	**Specific Use Regulations**
SRO Residential Hotel	A	A	A	A	A	—	A	
Transportation, Communications, and Infrastructure Uses								
Communication Facilities	A	A	A	—	A	A	A	
Heliports and Helistops (1)	—	—	—	—	—	—	—	
Marinas	Chapter 21.30C						—	
Marina Support Facilities	—	—	A	—	A	—	—	
Parking Facilities	A	A	A	A	A	A	A	
Parking Structure, adjacent to residential coastal zoning district	A	A	—	A	A	A	A	
Utilities, Minor	A	A	A	A	A	A	A	
Utilities, Major	A	A	A	A	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	A	A	A	Chapter 21.49
Vehicle Rental, Sale, and Service Uses								
Vehicle/Equipment Rentals								
General	—	A	—	—	A	—	—	
Office Only	A	A	A	A	A	—	A	
Limited	A	A	A	—	A	—	—	
Vehicles for Hire	—	A	—	—	A	—	—	
Vehicle/Equipment Repair								
General	—	A	—	—	—	—	—	
Limited	A	A	A	—	—	—	—	
Vehicle/Equipment Sales						—		
General	—	A	—	—	—	—	—	
Office Only	A	A	A	A	A	—	A	
Limited	—	A	—	—	—	—	—	
Vehicle/Equipment Services								
Automobile Washing/Detailing, full service	—	A	—	A	A	—	—	
Automobile Washing/Detailing, self-service or accessory	A	A	—	A	A	—	A	
Service Stations	A	A	—	A	A	—	—	

TABLE 21.20-1 ALLOWED USES	Commercial Coastal Zoning Districts A – Allowed – Not allowed *							
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**CC**	**CG**	**CM (3)**	**CN**	**CV (3)**	**CV-LV (3)**	**OG**	**Specific Use Regulations**
Other Uses								
Accessory Structures and Uses	A	A	A	A	A	A	A	
Drive-Through Facilities	A	A	A	A	A	—	A	
Outdoor Storage and Display	A	A	A	A	A	A	A	
Special Events	A	A	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(2) Above 1st floor only.

(3) Priority shall be given to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependent industry and to coastal-dependent uses over other uses on or near the shoreline. When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support.

21.20.030 – Commercial Coastal Zoning Districts General Development Standards

New ~~development (i.e., new~~ land uses and structures, and alterations to existing land uses and structures), shall be designed, constructed, and/or established in compliance with the requirements in Table 2-2, in addition to the development standards in Part 3 of this Implementation Plan (Site Planning and Development Standards).

TABLE 21.20-2
DEVELOPMENT STANDARDS FOR COMMERCIAL COASTAL ZONING DISTRICTS

Development Feature	CC	CG	CM	CN	CV	CV-LV	OG	Additional Requirements
Lot Dimensions	*Minimum dimensions required for each newly created lot*							
Lot Area (1)	5,000 sq. ft.	10,000 sq. ft.	N/A	20,000 sq. ft	N/A	10.000 sq.ft.	5,000 sq. ft.	
Lot Width	25 ft.	50 ft.	N/A	100 ft.	N/A	50 ft.	50 ft.	
Setbacks	*Minimum setbacks required for primary structures. See Section 21.30.110(D) (Allowed Encroachments into Setback Areas) for setback measurement, allowed projections into setbacks, and exceptions.*							
Front	0	0	0	0	0	Newport Blvd:	N/A	

Development Feature	CC	CG	CM	CN	CV	CV-LV	OG	Additional Requirements
						1 ft. for below grade structures; 20 ft. for structures up to 35 ft. in height; 60 ft. for structures over 35 ft. in height		
Side (interior, each):								
Abutting nonresidential	0	0	0	0	0	1 ft. for below grade structures; 5 ft. for above grade structures	0	
Abutting residential	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	
Side (Street side)	0	0	0	0	0	32nd Street: 1 ft. for below grade structures; 1 ft. for structures up to 35 ft. in height; 70 ft. for structures over 35 ft. in height (5) Via Oporto: 0	15 ft.	
Rear:								
Abutting an alley	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.	5 ft.	0	
Not abutting an alley	0	0	0	0	0	0	5 ft.	
Abutting residential	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	5 ft.	
Open Space	N/A	N/A	N/A	N/A	N/A	20%	N/A	
Bulkhead Setback	*Structures shall be set back a minimum of 10 ft. from the bulkhead in each coastal zoning district.*							
Floor Area Ratio (2) (3) (4)	0.75	0.75	0.50	0.30	1.50	(4)	1.30	
Height	*Maximum allowable height of structures without discretionary approval. See Section 21.30.060 (Height*							

Development Feature	CC	CG	CM	CN	CV	CV-LV	OG	Additional Requirements
	Limits and Exceptions) for height measurement requirements. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.							
Within Shoreline Height Limit Zone	26 ft. with flat roof; less than 3/12 pitch 31 ft. with sloped roof; 3/12 or greater pitch						55 ft. with flat roof, less than 3/12 roof pitch; 60 ft. with sloped roof, 3/12 roof pitch or greater (6)(7)	Section 21.30.060 See CLUP Policy 4.4.2-1
Not within Shoreline Height Limit Zone	32 ft. with flat roof; less than 3/12 pitch 37 ft. with sloped roof; 3/12 or greater pitch						N/A	
Within High Rise Height Area (See Figure H-1, attached to the ordinance codified in this Implementation Plan).	300						N/A	
Fencing	*See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).*							
Landscaping	*See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)*							
Lighting	*See Section 21.30.070 (Outdoor Lighting).*							
Parking	*See Chapter 21.40 (Off-Street Parking).*							
Signs	*See Section 21.30.065 (Signs).*							

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).

(2) In the CG Coastal Zoning District, when 0.3/0.5 is shown on the Coastal Zoning Map, the FAR may be increased to a maximum of 0.5 when two or more legal lots are merged to accommodate larger commercial development projects.

(3) Portions of legal lots that are submerged lands or tidelands shall be included in the land area of the lot for the purpose of calculating the allowable floor area for structures.

(4) The specific floor area limitations for each coastal zoning district are identified on the Coastal Zoning Map.

(5) Setbacks to 32nd Street do not apply to Fire Station No. 2.

(6) Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to 65 feet in height.

(7) Fire Station No. 2 may be up to 40 feet in height and may include architectural features up to 45 feet in height to house and screen essential equipment.

Chapter 21.22 – Mixed-Use Coastal Zoning Districts (MU-V, MU-MM, MU-CV/15th St, MU-W1, MU-W2)

Sections:

21.22.010 Purposes of Mixed-Use Coastal Zoning Districts
21.22.020 Mixed-Use Coastal Zoning Districts Land Uses
21.22.030 Mixed-Use Coastal Zoning Districts General Development Standards

21.22.010 – Purposes of Mixed-Use Coastal Zoning Districts

The purposes of the individual mixed-use coastal zoning districts and the manner in which they are applied are provided below. For the purpose of this Implementation Plan, mixed-use projects shall comply with nonresidential standards when no mixed-use standards exist.

A. **MU-V (Mixed-Use Vertical) Coastal Zoning District.** This coastal zoning district is intended to provide for areas appropriate for the development of mixed-use structures that vertically integrate residential dwelling units above the ground floor with retail uses including office, restaurant, retail, and similar nonresidential uses located on the ground floor or above.

B. **MU-MM (Mixed-Use Mariners' Mile) Coastal Zoning District.** This coastal zoning district applies to properties located on the inland side of Coast Highway in the Mariners' Mile Corridor. Properties fronting on Coast Highway may be developed for nonresidential uses only. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate residential above the ground floor with nonresidential uses on the ground floor.

C. **MU-CV/15th St. (Mixed-Use Cannery Village and 15th Street) Coastal Zoning District.** This coastal zoning district applies to areas where it is the intent to establish a cohesively developed district or neighborhood containing multi-unit residential dwelling units with clusters of mixed-use and/or commercial structures on interior lots of Cannery Village and 15th Street on Balboa Peninsula. Allowed uses may include multi-unit dwelling units; nonresidential uses; and/or mixed-use structures, where the ground floor is restricted to nonresidential uses along the street frontage. Residential uses and overnight accommodations are allowed above the ground floor and to the rear of uses along the street frontage. Mixed-use or nonresidential structures are required on lots at street intersections and are allowed, but not required, on other lots.

D. **MU-W1 (Mixed-Use Water) Coastal Zoning District.** This coastal zoning district applies to waterfront properties along the Mariners' Mile Corridor in which nonresidential uses and residential dwelling units may be intermixed. A minimum of fifty (50) percent of the allowed square footage in a mixed-use development shall be used for nonresidential uses in which marine-related and visitor-serving land uses are mixed as provided in Table 21.22-2. Design of nonresidential space to facilitate marine-related uses is encouraged.

E. **MU-W2 (Mixed-Use Water) Coastal Zoning District.** This coastal zoning district applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors.

21.22.020 – Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements

A. **Allowed Land Uses.** Tables 21.22-1 and 21.22-2 indicate the uses allowed within each coastal zoning district.

B. **Prohibited Land Uses.** Any table cell with "—" means that the listed land use is prohibited in that specific coastal zoning district.

C. **Applicable Regulations.** The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 21.22-1 ALLOWED USES	**Mixed-Use Zoning Districts**			
	A Allowed			
	— Not Allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5) (6)**	**Specific Use Regulations**
Industry, Manufacturing and Processing, Warehousing Uses				
Handicraft Industry	A	A	A	
Industry, Marine-Related	—	A	A	
Research and Development	A	A	A	
Recreation, Education, and Public Assembly Uses				
Assembly/Meeting Facilities	A	A	A	
Commercial Recreation and Entertainment	A	A	A	
Cultural Institutions	A	A	A	
Schools, Public and Private	A	A	A	
Residential Uses				
Single-Unit Dwellings				
Located on 1st floor	—	—	A (3)	
Located above 1st floor	A (1)	—	A (3)	
Multi-Unit Dwellings				
Located on 1st floor	—	A (1)(2)	A (3)	
Located above 1st floor	A (1)	A (1)(2)	A (3)	
Two-Unit Dwellings				

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts A Allowed — Not Allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5) (6)**	**Specific Use Regulations**
Located on 1st floor	—	—	A (3)	
Located above 1st floor	A (1)	—	A (3)	
Home Occupations	A	A (1)	A	
Live-Work Units	A	A (1)(2)	A (3)	
Care Uses				
Adult Day Care				
Small (6 or fewer)	A	A	A	
Child Day Care				
Small (8 or fewer)	A	A	A	
Day Care, General	—	A	A	
Retail Trade Uses				
Alcohol Sales (off-sale)	A	A	A	
Alcohol Sales (off-sale), Accessory Only	A	A	A	
Marine Rentals and Sales				
Boat Rentals and Sales	A	A	A	
Marine Retail Sales	A	A	A	
Retail Sales	A	A	A	
Service Uses—Business, Financial, Medical, and Professional				
ATMs	A	A	A	
Emergency Health Care/Urgent Care	A	A	A	
Financial Institutions and Related Services	A	A	A	
Offices—Business	A	A	A	
Offices—Medical and Dental	A	A	A	
Offices—Professional	A	A	A	
Service Uses—General				
Animal Sales and Services				
Animal Grooming	A	A	A	
Animal Retail Sales	A	A	A	

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts A Allowed — Not Allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5) (6)**	**Specific Use Regulations**
Veterinary Services	—	A	—	
Artists' Studios	A	A	A	
Eating and Drinking Establishments				
Accessory food service (open to public)	A	A	A	
Fast Food	A	A	A	
Food Service	A	A	A	
Take-Out Service, Limited	A	A	A	
Health/Fitness Facilities				
Small—2,000 sq. ft. or less	A	A	A	
Large—Over 2,000 sq. ft	A	A	A	
Laboratories	—	—	—	
Maintenance and Repair Services	A	A	A	
Marine Services				
Entertainment and Excursion Services	A	A	A	
Marine Service Stations	A	—	—	
Personal Services				
Massage Establishments	A	A	A	
Massage Services, Accessory	A	A	A	
Nail Salons	A	A	A	
Personal Services, General	A	A	A	
Personal Services, Restricted	A	A	A	
Studio	A	A	A	
Postal Services	A	A	A	
Printing and Duplicating Services	A	A	A	
Smoking Lounges	—	—	—	
Visitor Accommodations				
Hotels, Motels, and Time Shares	A	A	A	Section 21.48.025
Bed and Breakfast Inns	—	A	—	

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts A Allowed — Not Allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5) (6)**	**Specific Use Regulations**
Transportation, Communications, and Infrastructure Uses				
Parking Facility	A	A	A (2)	
Marinas	Chapter 21.30C			
Marina Support Facilities	A	A	A	
Utilities, Minor	A	A	A	
Utilities, Major	A	A	A	
Wireless Telecommunication Facilities	A	A	A	Chapter 21.49
Vehicle Rental, Sale, and Service Uses				
Vehicle/Equipment Rentals				
Office Only	A	A	A	
Limited (no outdoor storage)	—	A	—	
Vehicle/Equipment Repair				
Limited	—	A	—	
Vehicle Sales	—	A	—	
Vehicle Sales, Office Only	A	A	—	
Vehicle/Equipment Services				
Automobile Washing	—	A	—	
Service Stations	—	A	—	
Other Uses				
Accessory Structures and Uses	A	A	A	
Outdoor Storage and Display	A	A	A	
Personal Property Sales	A	A	A	
Special Events	A	A	A	Section 21.48.095
Temporary Uses	A	A	A	Section 21.48.105

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Allowed only as part of a mixed-use development.

(2) Not allowed to front onto Coast Highway. Coast Highway frontage shall be limited to nonresidential uses. See Table 21.22-3 (Development Standards for Vertical and Horizontal Mixed-Use Coastal Zoning Districts).

TABLE 21.22-1 ALLOWED USES	Mixed-Use Zoning Districts A Allowed — Not Allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-V (6)**	**MU-MM (4)**	**MU-CV/15th St. (5) (6)**	**Specific Use Regulations**

(3) Not allowed on lots at street intersections unless part of a mixed-use or live-work structure.

(4) Properties fronting on Coast Highway shall be developed with nonresidential uses as allowed in Table 21.22-2. Properties to the rear of the commercial frontage may be developed for freestanding nonresidential uses, multi-unit residential dwelling units, or mixed-use structures that integrate multi-unit residential above the ground floor with nonresidential uses on the ground floor. See Table 21.22-3 (Development Standards for Vertical and Horizontal Mixed-Use Coastal Zoning Districts).

(5) Mixed-use or commercial structures are required on lots at street intersections and are allowed, but not required, on other lots.

(6) Priority shall be given to visitor-serving and recreational uses on the Balboa Peninsula.

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts A Allowed — Not allowed *		
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-W1 (3)**	**MU-W2 (5)**	**Specific Use Regulations**
Industry, Manufacturing and Processing, Warehousing Uses			
Handicraft Industry	A	A	
Industry, Marine-Related	A	A	
Research and Development	A	A	
Recreation, Education, and Public Assembly Uses			
Assembly/Meeting Facilities			
Small—5,000 sq. ft. or less (religious assembly may be larger than 5,000 sq. ft.)	A	A	
Commercial Recreation and Entertainment	A	A	
Cultural Institutions	A	A	
Parks and Recreational Facilities	A	A	
Schools, Public and Private	A	A	
Residential Uses			
Single-Unit Dwellings			
Located on 1st floor	—	—	

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts A Allowed — Not allowed *		
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-W1 (3)**	**MU-W2 (5)**	**Specific Use Regulations**
Located above 1st floor	A (1)	A (2)	
Multi-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	A (1)	A (2)	
Two-Unit Dwellings			
Located on 1st floor	—	—	
Located above 1st floor	A (1)	A (2)	
Home Occupations	A	A (2)	
Care Uses			
Adult Day Care			
Small (6 or fewer)	A	A	
Child Day Care			
Small (8 or fewer)	A	A	
Day Care, General	—	A	
Retail Trade Uses			
Alcohol Sales (off-sale)	A	A	
Alcohol Sales (off-sale), Accessory Only	A	A	
Marine Rentals and Sales			
Boat Rentals and Sales	A	A	
Marine Retail Sales	A	A	
Retail Sales	A	A	
Visitor-Serving Retail	A	A	
Service Uses—Business, Financial, Medical, and Professional			
ATMs	A	A	
Emergency Health Facilities/Urgent Care	—	A	
Financial Institutions and Related Services (above 1st floor only)	A	A	
Offices—Business	A	A	
Offices—Medical and Dental (above 1st floor only)	—	A	

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts A Allowed — Not allowed *		
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-W1 (3)**	**MU-W2 (5)**	**Specific Use Regulations**
Offices—Profession	A	A	
Service Uses—General			
Animal Retail Sales	A	A	
Artists' Studios	A	A	
Eating and Drinking Establishments			
Accessory Food Service (open to public)	A	A	
Fast Food	A	A	
Food Service	A	A	
Take-Out Service—Limited	A	A	
Health/Fitness Facilities			
Small—2,000 sq. ft. or less	A	A	
Maintenance and Repair Services	A	A	
Marine Services			
Boat Storage	A	A	
Boat Yards	A	A	
Entertainment and Excursion Services	A	A	
Marine Service Stations	A	A	
Water Transportation Services	A	A	
Personal Services			
Massage Establishments	A	A	
Massage Services, Accessory	A	A	
Nail Salons	A	A	
Personal Services, General	A	A	
Personal Services, Restricted	A	A	
Smoking Lounges	—	—	
Visitor Accommodations			
Hotels, Motels, Bed and Breakfast Inns, and Time Shares	A	A	
Transportation, Communications, and Infrastructure			

TABLE 21.22-2 ALLOWED USES	Mixed-Use Coastal Zoning Districts A Allowed — Not allowed *		
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**MU-W1 (3)**	**MU-W2 (5)**	**Specific Use Regulations**
Parking Facilities	A	A	
Communication Facilities	A	A	
Heliports and Helistops (4)	A	A	
Marinas	Chapter 21.30C		
Marina Support Facilities	A	A	
Utilities, Minor	A	A	
Utilities, Major	A	A	
Wireless Telecommunication Facilities	Chapter 21.49		
Other Uses			
Accessory Structures and Uses	A	A	
Outdoor Storage and Display	A	A	
Personal Property Sales	A	A	
Special Events	A	A	Section 21.48.095
Temporary Uses	A	A	~~Section 21.48.105~~

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) May only be located on lots with a minimum of two hundred (200) lineal feet of frontage on Coast Highway.

(2) May only be located above a commercial use and not a parking use.

(3) A minimum of fifty (50) percent of the square footage of a mixed-use development shall be used for nonresidential uses.

(4) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(5) Visitor-serving and recreational uses shall be given priority on Balboa Island and the Balboa Peninsula.

21.22.030 – Mixed-Use Coastal Zoning Districts General Development Standards

New development (i.e., new land uses and structures, and alterations to existing land uses and structures), shall be designed, constructed, and/or established in compliance with the requirements in Table 21.22-1, in addition to the development standards in Part 3 of this Implementation Plan (Site Planning and Development Standards).

TABLE 21.22-3
DEVELOPMENT STANDARDS FOR VERTICAL AND HORIZONTAL MIXED-USE ZONING DISTRICTS

Development Feature	MU-V	MU-MM	MU-CV/15th St.	Additional Regulations
Lot Dimensions (1)(2)	Minimum dimensions required for each newly created lot.			
Lot Area (2)	2,500 sq. ft.	10,000 sq. ft.	5,000 sq. ft.	
Lot Width (2)	25 ft.	50 ft.	40 ft.	
Density Range	Minimum/maximum allowable density range for residential uses (6)			
Lot area required per unit (sq. ft.) (3)	Minimum: 1,631 Maximum: 2,167 (5)	Minimum: 1,631 Maximum: 2,167 For property beginning 100 ft. north of Coast Hwy.	Minimum: 1,631 Maximum: 2,167 (5)	
Floor Area Ratio (FAR) (4)				
Mixed-use development	Min. 0.35 Max. 0.50 for nonresidential Max. 1.0 for residential.	Min. 0.25 Max. 0.50 for nonresidential Max. 1.0 for residential.	Min. 0.25 Max. 0.50 for nonresidential Max. 1.0 for residential.	
Nonresidential only	0.75	0.50	0.50	
Residential only	N/A	N/A	1.5	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.			
Front	0	0	0	
Side	0	0	0	
Side adjoining a residential district	5 ft.	5 ft.	5 ft.	
Rear	0	0	0	
Rear adjoining residential district	5 ft.	5 ft.	5 ft.	
Rear adjoining an alley	10 ft.	5 ft.	10 ft.	
Bulkhead setback	10 ft.	N/A		
Open Space				
Common open space	Minimum 75 square feet/dwelling unit. (The minimum dimension (length and width) shall be 15 feet.)			
Private open space	5% of the gross floor area for each unit. (The minimum dimension (length and width) shall be 6 feet.)			
Separation Distance	Minimum distance between detached residential structures on same lot.			
	10 ft.	10 ft.	10 ft.	
Height	Maximum allowable height of structures without discretionary approval. See Section 21.30.060 (Height Limits and Exceptions) for height measurement requirements. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.			
MU-V, MU-MM, and MU-CV/15th St.	26 ft. with flat roof, less than 3/12 roof pitch 31 ft. with sloped roof, 3/12 roof pitch or greater			

Development Feature	MU-V	MU-MM	MU-CV/15th St.	Additional Regulations
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).			
Landscaping	See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)			
Lighting	See Section 21.30.070 (Outdoor Lighting).			
Parking	See Chapter 21.40 (Off-Street Parking).			
Signs	See Section 21.30.065 (Signs).			

Notes:

(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).

(2) The standards for minimum lot area and lot width are intended to regulate sites for development purposes only and are not intended to establish minimum dimensions for the creation of ownership or leasehold (e.g., condominium) purposes.

(3) For the purpose of determining the allowable number of units, portions of legal lots that are submerged lands or tidelands are included in land area of the lot.

(4) Portions of legal lots that are submerged lands or tidelands shall be included in the land area of the lot for the purpose of calculating the allowable floor area of structures.

(5) The minimum density may be modified or waived through the approval of a coastal development permit. The review authority may only waive or modify the minimum density upon making the finding that the subject property contains unique site constraints that prevent the project from complying with this standard.

(6) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.

TABLE 21.22-4
DEVELOPMENT STANDARDS FOR WATERFRONT MIXED-USE ZONING DISTRICTS

Development Feature	MU-W1 (3)	MU-W2	Additional Requirements
Lot Dimensions (1)(2)	Minimum dimensions required for each newly created lot.		
Lot Area			
Mixed-use structures	20,000 sq. ft.	2,500 sq. ft.	
Non-mixed-use structures	10,000 sq. ft.	2,500 sq. ft.	
Lot Width			
Mixed-use structures	200 ft.	25 ft.	
Non-mixed-use structures	50 ft.	25 ft.	
Density (4) (7)	Minimum/maximum allowable density range for residential uses.		
Lot area required per unit	Minimum: 7,260 sq. ft. per unit	Minimum: 1,631 Maximum: 2,167 (6)	
Floor Area Ratio (FAR) (5)			

Development Feature	MU-W1 (3)	MU-W2	Additional Requirements
Mixed-use development	Min. 0.35 and Max. 0.5 for nonresidential uses. Max. 0.5 for residential uses. (3) Max. 1.0 for mixed-use projects	Min. 0.35 and Max. 0.5 for nonresidential. Max. 0.75 for residential uses. Lido Marina Village Min. 0.35 Max. 0.7 for nonresidential and 0.8 residential.	
Nonresidential only	0.5 commercial only (3)	0.5 commercial only	
Setbacks	The distances below are minimum setbacks required for primary structures. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.		
Front	0	0	
Side	0	0	
Side adjoining a residential district	5 ft.	5 ft.	
Rear	0	0	
Rear residential portion of mixed use	N/A	5 ft.	
Rear nonresidential adjoining a residential district	N/A	5 ft.	
Rear adjoining an alley	N/A	10 ft.	
Bulkhead setback	10 ft.	10 ft.	
Open Space			
Common open space	Minimum 75 square feet/dwelling unit. (The minimum dimension (length and width) shall be 15 feet.)		
Private open space	5% of the gross floor area for each dwelling unit. (The minimum dimension (length and width) shall be 6 feet.)		
Separation Distance	Minimum distance between detached structures on same lot.		
	10 ft.	10 ft.	
Height	Maximum allowable height of structures without discretionary approval. See Section 21.30.060 (Height Limits and Exceptions) for height measurement requirements. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.		
	26 ft. with flat roof, less than 3/12 roof pitch 31 ft. with sloped roof, 3/12 roof pitch or greater		
Fencing	See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).		
Landscaping	See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)		
Lighting	See Section 21.30.070 (Outdoor Lighting).		
Parking	See Chapter 21.40 (Off-Street Parking).		
Signs	See Section 21.30.065 (Signs).		
Notes:			

Development Feature	MU-W1 (3)	MU-W2	Additional Requirements
(1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions). (2) The standards for minimum lot area and lot width are intended to regulate sites for development purposes only and are not intended to establish minimum dimensions for the creation of ownership or leasehold (e.g., condominium) purposes. (3) A minimum of fifty (50) percent of the square footage in a mixed-use development shall be used for nonresidential uses. (4) For the purpose of determining the allowable number of units, portions of legal lots that are submerged lands or tidelands shall be included in land area of the site. (5) Portions of legal lots that are submerged lands or tidelands shall be included in the net area of the lot for the purpose of calculating the allowable floor area of structures. (6) The minimum density may be modified or waived through the approval of a coastal development permit. The review authority may only waive or modify the minimum density upon making the finding that the subject property contains unique site constraints that prevent the project from complying with this standard. (7) Density bonuses may be granted for the development of housing that is affordable to lower-, low-, and moderate-income households and senior citizens in compliance with Government Code Sections 65915 through 65917. Any housing development approved pursuant to Government Code Section 65915 shall be consistent, to the maximum extent feasible, and in a manner most protective of coastal resources, with all otherwise applicable Local Coastal Program policies and development standards.			

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification
Double Underlined Bold Text = Language modifications made at 9/8/16 Commission meeting
~~Bold DoubleStrike Out Text~~ = Language deleted as part of modifications made at 9/8/16 Commission meeting

Chapter 21.26 – Special Purpose Coastal Zoning Districts (OS, PC, PF, PI, PR, and TS)

Sections:

21.26.010 Purposes of Special Purpose Coastal Zoning Districts
21.26.020 OS, PF, PI, PR, and TS Coastal Zoning Districts Land Uses
21.26.030 OS, PF, PI, PR, and TS Coastal Zoning Districts General Development Standards
21.26.045 Planned Community Coastal Zoning District Land Uses
21.26.055 Planned Community Coastal Zoning District Property Development Standards
21.26.065 Planned Communities Without Development Plans
~~21.26.075 Subsequently Adopted and Other Planned Communities~~

21.26.010 – Purposes of Special Purpose Coastal Zoning Districts

The purposes of the individual special purpose coastal zoning districts and the manner in which they are applied are as follows:

A. **OS (Open Space) Coastal Zoning District**. The OS Coastal Zoning District is intended to:

1. Provide areas for a range of public and private uses to ~~maintain and~~ protect, maintain, and enhance the community's natural ~~open space~~ resources; and

2. Maintain and protect landscaped open space areas located within residential and nonresidential developments, where no further development is allowed.

B. **PC (Planned Community) Coastal Zoning District.** The PC Coastal Zoning District is intended to provide for areas appropriate for the development of coordinated, comprehensive projects that result in a superior environment; to allow diversification of land uses as they relate to each other in a physical and environmental arrangement while maintaining the spirit and intent of this Implementation Plan; and to include a variety of land uses, consistent with the Coastal Land Use Plan, through the adoption of a development plan and related text that provides land use relationships and associated development standards.

C. **PF (Public Facilities) Coastal Zoning District.** The PF Coastal Zoning District is intended to provide for areas appropriate for public facilities, including community centers, cultural institutions, government facilities, libraries, ~~public hospitals,~~ public utilities, and public schools.

D. **PI (Private Institutions) Coastal Zoning District.** The PI Coastal Zoning District is intended to provide for areas appropriate for privately owned facilities that serve the public, including places for assembly/meeting facilities (e.g., religious assembly),

congregate care homes, cultural institutions, health care facilities, marinas, museums, private schools, yacht clubs, and comparable facilities.

E. **PR (Parks and Recreation) Coastal Zoning District.** The PR Coastal Zoning District is intended to provide for areas appropriate for land used or proposed for active public or private recreational use. Allowed uses include aquatic facilities, golf courses, marina support facilities, parks (both active and passive), private recreational facilities, tennis clubs and courts, and similar recreational facilities.

F. **TS (Tidelands and Submerged Lands) Coastal Zoning District.** The TS Coastal Zoning District is intended to protect, maintain, and enhance the natural resources of the tidelands and submerged lands ~~under the jurisdiction of the City of Newport Beach in a manner consistent with the Tidelands Trust~~ of Newport Bay and the Pacific Ocean immediately adjacent to the City. This district is generally not applied to historic tidelands and submerged lands that are presently filled or reclaimed.

21.26.020 – OS, PF, PI, PR, and TS Coastal Zoning Districts Land Uses

A. **Allowed Land Uses.** Table 21.26-1 indicates the uses allowed in the OS, PF, PI, and PR Coastal Zoning Districts. Allowed uses in the TS Coastal Zoning District uses are subject to the Common Law Public Trust, which limits uses to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection ~~(see~~ See Section 21.48.085 (Public Trust Lands).

B. **Prohibited Land Uses.** Any table cell with "—" means that the listed land use is prohibited in that specific coastal zoning district.

C. **Applicable Regulations.** The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 21.26-1 ALLOWED USES	**Special Purpose Coastal Zoning Districts A Allowed — Not allowed ***				
Land Use See Part 7 of this Implementation Plan for land use definitions. See Chapter 21.12 for unlisted uses.	**OS (3)**	**PF**	**PI**	**PR (4)**	**Specific Use Regulations**
Recreation, Education, and Public Assembly Uses					
Assembly/Meeting Facilities	—	A	A	A	
Commercial Recreation and Entertainment	—	—	A	A	
Cultural Institutions	—	A	A	A	
Parks and Recreational Facilities					
Active	—	A	A	A	
Passive	A	A	A	A	
Marine and Wildlife Preserves	A	—	—	—	Section 21.48.065 Section 21.48.075 Chapter 21.30B

TABLE 21.26-1 ALLOWED USES	Special Purpose Coastal Zoning Districts A Allowed — Not allowed *				
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**OS (3)**	**PF**	**PI**	**PR (4)**	**Specific Use Regulations**
Schools, Public and Private	—	A	A	—	
Care Uses					
Congregate Care Home	—	—	A	—	
Convalescent Facilities	—	—	A	—	
Day Care, General	—	A	A	—	
Emergency Health Facility/Urgent Care	—	—	A	—	
Hospital	—	—	A	—	
Residential Care, Accessory Use Only	—	A	A	—	
Retail Trade Uses					
Alcohol Sales (on-sale), Accessory Only	—	—	A	A	
Service Uses—General					
Eating and Drinking Establishments					
Accessory (open to public)	—	—	A	A	
Emergency Shelters	—	—	A	—	
Governmental Facilities	—	A	—	A	
Marine Services—Boat Storage and Boat Yard, Accessory Only	—	A	A	A	
Transportation, Communications, and Infrastructure					
Parking Facilities, Accessory Only	—	A	A	A	
Heliports and Helistops (1)	—	A	—	—	
Marinas	Chapter 21.30C				
Marina Support Facilities	—	A	A	A	
Utilities, Minor	A	A	A	A	
Utilities, Major	A (2)	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	Chapter 21.49
Other Uses					
Accessory Structures and Uses	A	A	A	A	
Special Events	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	~~Section 21.48.105~~

TABLE 21.26-1 ALLOWED USES	Special Purpose Coastal Zoning Districts A Allowed — Not allowed *				
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**OS (3)**	**PF**	**PI**	**PR (4)**	**Specific Use Regulations**

* Uses Not Listed. Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Applicants for City approval of a heliport or helistop shall provide evidence that the proposed heliport or helistop complies fully with State of California permit procedures and with any and all conditions of approval imposed by the Federal Aviation Administration (FAA), the Airport Land Use Commission for Orange County (ALUC), and by the Caltrans Division of Aeronautics.

(2) Limited to electrical substations, above-ground electrical transmission lines, lone switching structures, water reservoirs, flood control or drainage facilities, transportation or communications utilities, and similar facilities of public agencies or public utilities.

(3) Uses within areas designated as an environmentally sensitive habitat (ESHA) shall be limited to only those uses that are dependent on such resources (see Section 21.30B.030 (F).

(4) Development on public sandy beach areas shall be limited to those structures directly supportive of visitor-serving and recreational uses, such as lifeguard towers, recreational equipment, restrooms, and showers.

21.26.030 – OS, PF, PI, PR, and TS Coastal Zoning Districts General Development Standards

A. **PI Coastal Zoning District.** New land uses and structures, and alterations to existing land uses and structures, shall be designed, constructed, and/or established in compliance with the requirements in Table 21.26-2, in addition to the development standards in Part 3 of this Implementation Plan (Site Planning and Development Standards).

B. **Other Special Purpose Coastal Zoning Districts**. Except for the PI and PC Coastal Zoning District, the development standards for all other special purpose coastal zoning districts shall be established during review of the required coastal development permit.

TABLE 21.26-2
DEVELOPMENT STANDARDS FOR PUBLIC INSTITUTIONAL ZONING DISTRICT

Development Feature	PI	Additional Requirements
Lot Area	N/A	
Setbacks	*Minimum setbacks shall be established by the applicable coastal development permit. See Section 21.30.110 (Setback Regulations and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions.*	
Floor Area Ratio	*As specified on the Coastal Zoning Map.*	
Height	*See Section 21.30.060 (Height Limits and Exceptions) for height measurement requirements. See Section 21.30.060(C) (Increase in Height Limit) for possible increase in height limit.*	
Within Shoreline Height Limit Zone	26 ft. with flat roof; less than 3/12 pitch 31 ft. with sloped roof; 3/12 or greater pitch.	

Development Feature	PI	Additional Requirements
Not within Shoreline Height Limit Zone	32 ft. with flat roof; less than 3/12 pitch 37 ft. with sloped roof; 3/12 or greater pitch.	
Fencing	*See Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).*	
Landscaping	*See Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping)*	
Lighting	*See Section 21.30.070 (Outdoor Lighting).*	
Parking	*See Chapter 21.40 (Off-Street Parking).*	
Signs	*See Section 21.30.065 (Signs).*	
Notes: (1) All development and the subdivision of land shall comply with the requirements of Section 21.30.025 (Coastal Zone Subdivisions).		

21.26.045 – Planned Community Coastal Zoning District Land Uses

A. **Allowed Land Uses**. Tables 21.26-3 through 21.26-~~8~~ 9 indicate the uses allowed in the Planned Community Coastal Zoning Districts.

B. **Prohibited Land Uses.** Any table cell with "—" means that the listed land use is prohibited in that specific coastal zoning district.

C. **Applicable Regulations.** The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 21.26-3 ALLOWED USES	**Newport Harbor Lutheran Church (PC-2), North Ford (PC-5), Back Bay Landing (PC-9)[1], Versailles on the Bluff (PC-10), Sea Island (PC-21)** **A Allowed** **– Not allowed***						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-2**	**PC-5**			**PC-10**	**PC-21**	**Specific Use Regulations**
		4	4A	5			
Recreation, Education, and Public Assembly Uses							
Assembly/Meeting Facilities	A	—	—	=	=	—	
Marine and Wildlife Preserves	—	—	A	=	=	—	Section 21.48.065 Section 21.48.075 Chapter 21.30B
Parks and Recreational Facilities							
Active	—	—	—	=	=	—	
Passive	—	—	A	=	=	—	
Schools, Public and Private	A (2)	—	—	=	=	—	
Residential Uses							
Single-Unit Dwellings—Attached	—	A	—	A	A	A	

TABLE 21.26-3 ALLOWED USES	Newport Harbor Lutheran Church (PC-2), North Ford (PC-5), Back Bay Landing (PC-9)[1], Versailles on the Bluff (PC-10), Sea Island (PC-21) A Allowed – Not allowed*						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-2**	**PC-5**			**PC-10**	**PC-21**	**Specific Use Regulations**
		4	4A	5			
Single-Unit Dwellings—Detached	—	—	—	A	A	—	
Two-Unit Dwellings	—	A	—	A	A	A	
Multi-Unit Dwellings	—	A	—	A	A	A	
Home Occupations	—	A	—	A	A	A	
Visitor Accommodations, Residential							
Short-Term Lodging	—	A	—	A	—	A	
Transportation, Communications, and Infrastructure Uses							
Utilities, Minor	A	A	A	A	A	A	
Utilities, Major	A	A	A	A	—	A	
Wireless Telecommunication Facilities	A	A	A	A	A	A	Chapter 21.49
Other Uses							
Accessory Structures and Uses	A	A	A	A	A	A	
Personal Property Sales	—	A	—	A	A	A	
Special Events	A	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Back Bay Landing Planned Community Development Plan (PC-9) is incorporated as an attachment to this chapter.

(2) Subject to approval of the Planning Director after a determination that the parking provided is adequate to serve demand and that the uses will not adversely impact other land uses in the area.

TABLE 21.26-~~3~~4 ALLOWED USES	Westcliff Grove (PC-22), Corona del Mar Homes (PC-29), Villa Point Apartments (PC-30) A Allowed – Not allowed *			
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-22**	**PC-29**	**PC-30**	**Specific Use Regulations**
Assembly/Meeting Facilities	—	—	—	
Marine and Wildlife Preserves	—	—	—	Section 21.48.065 Section 21.48.075 Chapter 21.30B
Active	—	A	—	
Passive	—	A	—	
Schools, Public and Private	—	—	—	
Single-Unit Dwellings—Attached	—	A	A	
Single-Unit Dwellings—Detached	A	A	—	
Two-Unit Dwellings	—	A	A	
Multi-Unit Dwellings	—	—	A	
Home Occupations	A	A	A	
Visitor Accommodations, Residential				
Short-Term Lodging	—	—	A	
Utilities, Minor	A	A	—	
Utilities, Major	A	A	—	
Wireless Telecommunication Facilities	A	A	—	Chapter 21.49
Accessory Structures and Uses	A	A	—	
Personal Property Sales	A	A	—	
Special Events	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

TABLE 21.26-45 ALLOWED USES	Bayview (PC-32), Castaways Marina (PC-37), and Bayview Landing (PC-39)						
	A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-32**			**PC-37 (1)**	**PC-39**		**Specific Use Regulations**
	Area 2	Area 4	Area 6		Area 1	Area 2	
Industry, Manufacturing and Processing, and Warehousing Uses							
Personal Storage (Mini Storage)	—		—	—	—	—	
Recreation, Education, and Public Assembly Uses							
Commercial Recreation and Entertainment	—	—	—	—	A	—	
Marine and Wildlife Preserves	—	—	A	A	—	A	Section 21.48.065 Section 21.48.075 Chapter 21.30B
Parks and Recreational Facilities							
Active	—	—	A	A	—	—	
Passive	—	—	A	A	—	A	
Residential Uses							
Single-Unit Dwellings—Attached	A	—	—	—	—	—	
Single-Unit Dwellings—Detached	A	—	—	—	—	—	
Multi-Unit Dwellings	—	—	—	—	A	—	
Home Occupations	A	—	—	—	A	—	
Visitor Accommodations, Residential							
Short-Term Lodging	A	—	—	—	A	—	
Care Uses							
Congregate Care Home	—	—	—	—	A	—	
Convalescent Facilities	—	—	—	—	A	—	
Service Uses—General							
Eating and Drinking Establishments	—	—	—	—	A	—	
Health/Fitness Facilities	—	A	—	—	A	—	
Hotels and Motels	—	A	—	—	—	—	Section 21.48.025
Transportation, Communications, and Infrastructure Uses							
Heliports and Helistops (1)	—	A	—	—	—	—	
Marinas	—	—	—	A	—	—	Chapter 21.30C
Marina Support Facilities	—	—	—	A	—	—	
Utilities, Minor	A	A	A	A	A	A	
Utilities, Major	A	A	A	A	A	A	

TABLE 21.26-45 ALLOWED USES	Bayview (PC-32), Castaways Marina (PC-37), and Bayview Landing (PC-39)						
	A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-32**			**PC-37 (1)**	**PC-39**		**Specific Use Regulations**
	Area 2	Area 4	Area 6		Area 1	Area 2	
Vehicle Rental, Sale, and Service Uses							
Automobile Washing/Detailing, full service	—	A	—	—	—	—	
Wireless Telecommunication Facilities	A	A	A	A	A	A	Chapter 21.49
Other Uses							
Accessory Structures and Uses	A	A	A	A	A	A	
Personal Property Sales	A	—	—	—	A	—	
Special Events	A	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Priority shall be given to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependent industry and to coastal-dependent uses over other uses on or near the shoreline. When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support.

TABLE 21.26-~~56~~ ALLOWED USES	Hoag Hospital Lower Campus (PC-38), Corporate Plaza West (PC-40) and Newporter North (PC-41)					
	A Allowed – Not allowed *					
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-38**	**PC-40**	**PC-41**			**Specific Use Regulations**
			Area 1	Area 2	Area 3	
Recreation, Education, and Public Assembly Uses						
Assembly/Meeting Facilities	—	A	—	—	—	
Commercial Recreation and Entertainment	—	A	—	—	—	
Cultural Institutions	—	A	A	—	—	
Marine and Wildlife Preserves	—	—	—	—	A	Section 21.48.065 Section 21.48.075 Chapter 21.30B
Parks and Recreational Facilities						
Passive	—	—	—	A (3)	—	

TABLE 21.26-~~56~~ ALLOWED USES	Hoag Hospital Lower Campus (PC-38), Corporate Plaza West (PC-40) and Newporter North (PC-41)					
	A Allowed – Not allowed *					
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-38**	**PC-40**	**PC-41**			**Specific Use Regulations**
			Area 1	Area 2	Area 3	
CARE USES						
Congregate Care Home	A	—	—	—	—	
Convalescent Facilities	A	—	—	—	—	
Hospital	A	—	—	—	—	
Residential Care Facilities	A	—	—	—	—	
Residential Uses						
Single-Unit Dwellings—Attached	—	—	A	—	—	
Single-Unit Dwellings—Detached	—	—	A	—	—	
Two-Unit Dwellings	—	—	A	—	—	
Multi-Unit Dwellings	—	—	A	—	—	
Accessory Dwelling Units	—	—	A	—	—	
Home Occupations	—	—	A	—	—	
Retail Trade Uses						
Retail Sales	—	A (1)	—	—	—	
Service Uses—Business, Financial, Medical, and Professional						
ATM	—	A	—	—	—	
Emergency Health Facility/Urgent Care	—	—	—	—	—	
Financial Institutions and Related Services	—	A	—	—	—	
Offices—Corporate	—	A	—	—	—	
Offices—Business	—	A	—	—	—	
Service Uses—General						
Eating and Drinking Establishments	—	A	—	—	—	
Nail Salons	—	A (1)	—	—	—	
Personal Services, General	—	A (1)	—	—	—	
Postal Services	—	A (1)	—	—	—	
Printing and Duplicating Services	—	A (1)	—	—	—	

TABLE 21.26-~~56~~ ALLOWED USES	Hoag Hospital Lower Campus (PC-38), Corporate Plaza West (PC-40) and Newporter North (PC-41) A Allowed – Not allowed *					
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-38**	**PC-40**	**PC-41**			**Specific Use Regulations**
			Area 1	Area 2	Area 3	
Transportation, Communications, and Infrastructure Uses						
Parking Facilities	A	A	—	—	—	
Utilities, Minor	A	A	A	—	—	
Utilities, Major	A	A	A	—	—	
Wireless Telecommunication Facilities	A	A	A	—	—	Chapter 21.49
Other Uses						
Accessory Structures and Uses	A	A	A	—	—	
Drive-Through Facilities	—	A (2)	—	—	—	
Personal Property Sales	—	—	A	—	—	
Special Events	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Limited retail sales and services of a convenience nature.
(2) Limited to restaurants and drive-up teller units.
(3) The Newport North view park is intended to be passive in nature, characterized by low intensity usage such as hiking, bicycling and informal recreation.

TABLE 21.26-~~6~~7 ALLOWED USES	San Diego Creek North (PC-42) A Allowed – Not allowed *				
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-42**				**Specific Use Regulations**
	Area 1	Area 2	Area 3	Area 4	
Recreation, Education, and Public Assembly Uses					
Marine and Wildlife Preserves	A	A	A	A	
Parks and Recreational Facilities					
Active	—	A	—	A	
Passive	—	A	A	A	

TABLE 21.26-67 ALLOWED USES	San Diego Creek North (PC-42)				
	A Allowed – Not allowed *				
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	PC-42				Specific Use Regulations
	Area 1	Area 2	Area 3	Area 4	
Transportation, Communications, and Infrastructure Uses					
Utilities, Minor	A	A	A	A	
Utilities, Major	—	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	Chapter 21.49
Vehicle Rental, Sale, and Service Uses					
Vehicle/Equipment Rentals	—	—	—	A	
Other Uses					
Accessory Structures and Uses	A	A	A	A	
Special Events	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

TABLE 21.26-78 ALLOWED USES	Upper Castaways (PC-43) and Balboa Bay Club (PC-45)						
	A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	PC-43				PC-45		Specific Use Regulations
	Area 1	Area 2	Area 3	Area 4	Area 1	Area 2	
Recreation, Education, and Public Assembly Uses							
Marine and Wildlife Preserves	—	—	A	—	—	—	Section 21.48.065 Section 21.48.075 Chapter 21.30B
Parks and Recreational Facilities							
Active	—	—	—	A	—	—	
Passive	—	A	—	—	—	—	
Residential Uses							
Single-Unit Dwellings—Attached	A	—	—	—	—	A	

TABLE 21.26-~~78~~ ALLOWED USES	Upper Castaways (PC-43) and Balboa Bay Club (PC-45) A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-43**				**PC-45**		**Specific Use Regulations**
	Area 1	Area 2	Area 3	Area 4	Area 1	Area 2	
Single-Unit Dwellings—Detached	A	—	—	—	—	A	
Two-Unit Dwellings	A	—	—	—	—	A	
Multi-Unit Dwellings	A	—	—	—	—	A	
Accessory Dwelling Units	A	—	—	—	—	A	
Home Occupations	A	—	—	—	—	A	
Retail Trade Uses							
Retail Sales	—	—	—	—	A (2)	—	
Service Uses—General							
Health/Fitness Facilities	—	—	—	—	A	—	
Visitor Accommodations							
Hotels and Motels	—	—	—	—	A	—	Section 21.48.025
Transportation, Communications, and Infrastructure Uses							
Marinas	—	—	—	—	A	A	Chapter 21.30C
Marina Support Facilities	—	—	—	—	A	A	
Parking Facilities	—	—	—	—	A	A	
Utilities, Minor	A	A	A	A	A	A	
Utilities, Major	—	A	—	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	A	A	Chapter 21.49
Vehicle Rental, Sale, and Service Uses							
Vehicle/Equipment Services							
Automobile Washing/Detailing, full service	—	—	—	—	A (1)	A (1)	
Other Uses							
Accessory Structures and Uses	A	A	A	A	A	A	
Personal Property Sales	A	—	—	—	—	A	
Special Events	A	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning

TABLE 21.26-~~7~~8 ALLOWED USES	Upper Castaways (PC-43) and Balboa Bay Club (PC-45) A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-43**				**PC-45**		**Specific Use Regulations**
	Area 1	Area 2	Area 3	Area 4	Area 1	Area 2	
district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation). (1) Accessory use only. (2) Priority shall be given to visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation over other commercial uses, except for agriculture and coastal-dependent industry and to coastal-dependent uses over other uses on or near the shoreline. When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support.							

TABLE 21.26-~~8~~9 ALLOWED USES	Newport Beach Country Club (PC-47), Santa Barbara Residential (PC-54), and Bayside Residential (PC-55) A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-47**				**PC-54**	**PC-55**	**Specific Use Regulations**
	Golf Course	Golf Clubhouse	Tennis Club	Bungalows & Villas			
Recreation, Education, and Public Assembly Uses							
Assembly/Meeting Facilities	—	A (1)	A (2)	—	—	—	
Commercial Recreation and Entertainment	—	—	—	—	—	—	
Golf Course	A	—	—	—	—	—	
Tennis Courts	—	—	A	—	—	—	
Residential Uses							
Single-Unit Dwellings—Detached	—	—	—	A	—	A	
Multi-Unit Dwellings	—	—	—	—	A	—	
Home Occupations	—	—	—	—	A	A	
Visitor Accommodations, Residential							
Short-Term Lodging	—	—	—	A	—	—	
Retail Trade Uses							
Retail Sales	—	A (1)	A (2)	—	—	—	
Transportation, Communications, and Infrastructure Uses							
Utilities, Minor	A	A	A	A	A	A	
Wireless Telecommunication Facilities	A	A	A	A	A	A	Chapter 21.49

TABLE 21.26-8~~9~~ ALLOWED USES	Newport Beach Country Club (PC-47), Santa Barbara Residential (PC-54), and Bayside Residential (PC-55) A Allowed – Not allowed *						
Land Use **See Part 7 of this Implementation Plan for land use definitions.** **See Chapter 21.12 for unlisted uses.**	**PC-47**				**PC-54**	**PC-55**	**Specific Use Regulations**
	Golf Course	Golf Clubhouse	Tennis Club	Bungalows & Villas			
Vehicle Rental, Sale, and Service Uses							
Vehicle/Equipment Services							
Automobile Washing/Detailing, full service	—	A (1)	—	—	—	—	
Other Uses							
Accessory Structures and Uses	A	A	A	A	A	A	
Personal Property Sales	—	—	—	—	A	A	
Special Events	A	A	A	A	A	A	~~Section 21.48.095~~
Temporary Uses	A	A	A	A	A	A	~~Section 21.48.105~~

* **Uses Not Listed.** Land uses that are not listed in the table above, or are not shown in a particular coastal zoning district, are not allowed, except as otherwise provided by Section 21.12.020 (Rules of Interpretation).

(1) Ancillary to golf clubhouse only.
(2) Ancillary to the tennis club only.

21.26.055 – Planned Community Coastal Zoning District Development Standards

A. **Relationship to Other Property Development Regulations.** Property development regulations applicable to residential, commercial, industrial, and mixed-use districts shall also apply to corresponding portions of PC Districts, unless specifically waived or modified by subsections (B) through (P) of this section. Where conflict in provisions occurs, the regulations specified in this chapter or in the development plan(s) approved in compliance with this chapter shall apply. ***If a PC District is located within the Shoreline Height Limit Area, per Map H-1, the 35-foot height limit shall prevail over any other higher height limit identified in a PC District.***

B. **Newport Harbor Lutheran Church (PC-2)**

1. Density/Intensity Limit. 40,000 sq. ft.

2. Setbacks.

a. Front (Dover Drive):

i. Ten (10) feet from new property line occurring between City Parking Lot and the Church parking lot.

ii. Surface parking setback shall be a minimum of five (5) feet.

iii. Fences and walls shall not exceed six (6) feet in height within the front yard setback and shall comply with the requirements of Section 4 below.

b. Side:

Twenty (20) feet from existing property line along Castaway Lane. Landscaping, planters, walls, fencing, trellises, pergolas, parking spaces and driveways shall be allowed within the setback area subject to a 10-foot height limit. Non-habitable architectural features (e.g., trellis, awning, bay window) may encroach up to five (5) feet into the required side yard setback.

c. Rear (Newport Harbor Lutheran Church Development):

Building setback from the rear property line shall be a minimum of ten (10) feet from the new property line. No solid fencing or walls greater than three (3) feet in height shall be permitted within the rear yard setback. Transparent windscreens may extend up to eight (8) feet above grade.

3. Height. Building Height limit shall be limited to the height of the existing Sanctuary. Building Tower and Crosses shall be permitted to exceed the Building Height limitation but shall be limited to a maximum height of sixty-five (65) feet.

4. Parking. Uses shall not generate parking needs beyond the 163 spaces provided.

C. **North Ford Planned Community (PC-5)**

1. ~~Density/Intensity~~Density/Intensity Limit.

a. Area 4. 300 dwelling units.
b. Area 5. 888 dwelling units

2. Setbacks. The following minimum setbacks shall apply to all structures (not to include garden walls or fences) adjacent to streets:

a. Area 4.

(1) Setbacks from streets. Said setbacks shall be measured from property line to the ultimate right-of-way line.

(a) Jamboree Road/Freeway Ramp: 25 feet.
(b) University Drive South: 20 feet.
(c) Private Streets and Drives: 5 feet.
(d) Collector Streets: 15 feet.

No structures or open parking shall be permitted in setback areas from Jamboree Road, and University Drive South, or in areas that would block sight distance at major street corners and along major street curves, unless otherwise approved by the City Traffic Engineer.

(2) Setbacks – Garages. Garages with direct access to streets or drives may be setback either from 5 to 7 feet average or a minimum average of 20 feet measured from back of curb, or in the event that sidewalks are constructed, from back of sidewalk.

(3) Setbacks from other property lines and structures.

(a) A minimum setback of 5 feet is required from all other property lines.

(b) All main residential structures on the same lot shall be a minimum of 8 feet apart. This shall be measured from face of finished wall.

(4) Setback exceptions. Architectural features, such as not limited to cornices, eaves, and wing walls may extend 2.5 feet into any front, side or rear setback.

b. Area 5.

(1) Setbacks from streets. Said setbacks shall be measured from property.

(a) Jamboree Road/Freeway Ramp: 30 feet.
(b) University Drive South: 20 feet.
(c) Camelback Street: 20 feet.
(d) Private Streets and Drives: 0 feet.
(e) Collector Streets: 15 feet.

No structures or open parking shall be permitted in setback areas from Jamboree Road, and Camelback Street.

(2) Setbacks – Garages. Garages with direct access to streets or drives may be setback either from 5 to 7 feet average or a minimum average of 20 feet measured from back of curb, or in the event that sidewalks are constructed, from back of sidewalk.

(3) Setbacks from other property lines and structures.

(a) A minimum setback of 5 feet is required from all other property lines.

(b) All main residential structures on the same lot shall be a minimum of 8 feet apart. This shall be measured from face of finished wall.

(4) Setback exceptions. Architectural features, such as not limited to cornices, eaves, and wing walls may extend 2.5 feet into any front, side or rear setback.

3. Lot coverage. The maximum building site area permitted in this PC District shall be full coverage, less required front, side and rear setbacks.

4. Height.

a. Area 4.

(1) The maximum height of all buildings shall be 35 feet.

(2) One architectural tower shall be permitted with a maximum allowable foot print of 25 feet by 25 feet, a maximum allowable height of 55 feet, and shall maintain the following minimum setbacks from the ultimate right-of-way line of surrounding streets:

(a) Jamboree Road: 100 feet
(b) University Drive South: 100 feet

b. Area 5.

The base height limit for structures with flat roofs is thirty-two (32) feet and the base height limit for structures with sloped roofs is thirty-seven (37) feet. The height of a structure may be increased up to a maximum of fifty (50) feet with a flat roof or fifty-five (55) feet with a sloped roof through the approval of a coastal development permit.

5. Fencing. Fences shall be limited to maximum height of 8 feet, except within street setback areas where fences, hedges and walls shall be limited to 3 feet. Wing walls, where an extension of a residential or accessory structure is to be constructed, may be 8 feet in height.

6. ~~Landscaping~~Project Edges. Project edges adjacent to University Drive South and Jamboree Road shall be enhanced with landscaped berms and undulating walls. Varying building setbacks are also encouraged to create soft project edges. In order to reduce the perception of building mass along perimeter roadways and San Diego Creek, three story building elements shall be setback a minimum of 5 feet and average 15 feet in addition to the required setback. Where three-story buildings do occur, one and two-story elements should be incorporated into the building composition in order to reduce bulk and mass.

7. Parking.

a. Area 4.

A minimum of 1.87 parking spaces shall be provided per unit, including one covered space. In addition, guest parking shall be provided within the development at a minimum rate of 0.5 space per unit. Guest parking may be provided on street, in parking bays, or on driveway aprons (minimum 20 feet in depth), in a manner acceptable to the City Traffic Engineer.

b. Area 5.

A minimum of 2 parking spaces shall be provided per unit, including one covered space. In addition, guest parking shall be provided within the development at a minimum rate of 0.5 space per unit. Guest parking may be provided on street, in parking bays, or on driveway aprons (minimum 20' in depth), in a manner acceptable to the City Traffic Engineer.

8. Floor Area Limit.

a. Area 5.

The total gross floor area, including basements, garages and carports, but excluding decks, balconies or patios open on at least two sides or open on one side and unroofed, contained in all buildings on a building site in this District shall not exceed one and one-half the buildable area of the site, provided that any required parking space, whether open or covered, shall be included in the calculation of gross floor area. The term "buildable area" shall mean the area of a building site, excluding any basic minimum side, front and rear yard spaces.

D. Back Bay Landing (PC-9)

Back Bay Landing Planned Community Development Plan (PC-9) is incorporated as an attachment to this chapter.

E. Versailles on the Bluffs at Newport (PC-10)

1. Density/Intensity Limit. 1,028 dwelling units

2. Setbacks.

A building setback line of 20 feet shall be maintained from the exterior boundary lines of the district as follows:

a. On the northerly boundary of the district: 80 feet (20 feet from the southerly right of way line for Hospital Road extended).

b. On the westerly· boundary of the district (Superior Avenue center line) 70 feet (20 feet from ultimate right of way line of Superior Avenue).

c. On the southerly boundary of the district: 20 feet.

d. On the easterly boundary of the district: 20 feet.

3. Height.

The maximum height for all buildings shall be limited to three floors of habitable space over one or more basement parking levels.

~~D~~F. Sea Island Planned Community (PC-21)

1. ~~Density/Intensity~~Density/Intensity Limit. 226 dwelling units.

2. Setbacks.

a. Setbacks from public streets. A minimum setback of 20 feet shall apply to all structures adjacent to public streets; except that tennis courts, balconies and patios may encroach six 6 feet into the required setback. Setbacks shall be measured from the ultimate right-of-way line.

b. Setbacks from Property Lines and Other Structures.

(1) The minimum setback excluding fences and walls shall be 5 feet from all property lines.

(2) All main residential structures shall be a minimum of 8 feet apart measured from face of finished wall to face of finished wall.

(3) Garages, carports, and other uninhabited structures shall be separated from main residential structures a minimum of 8 feet measured from face of finished wall to face of finished wall.

(4) Garages, carports, and other uninhabited structures may be attached or separated from one another in accordance with the provisions of the Newport Beach Building Code and Fire Marshall requirements.

(5) Direct access garages shall be setback not more than 5 feet or less than 20 feet.

c. Setback exceptions. Architectural features, limited to cornices or eaves, may extend 2.5 feet into any front, side or rear setback.

3. Lot coverage. The maximum site coverage permitted shall be 50 percent of the net site area. For purposes of this ordinance, site coverage shall include all areas under roof but shall not include trellis areas.

4. Height. 32 feet for flat roofs and 50 feet for sloped roofs.

5. Fencing. Fences and walls shall not exceed 6 feet and such fences and walls are permitted within the required setbacks.

6. Parking. A minimum of 2 parking spaces per unit shall be required of which a minimum of one parking space per unit shall be covered The parking spaces required for any unit and/or any cluster of units shall be located in the immediate vicinity of said units, i.e., within convenient walking distance. Where a fractional figure remains in computations made to determine the number of required off-street parking spaces, said fraction shall be rounded upward to the nearest whole number.

~~E~~G. **Westcliff Grove Planned Community (PC-22)**

1. Lot Area. 5,000 sq. ft. minimum.
2. ~~Density/Intensity~~Density/Intensity Limit. 29 dwelling units.
3. Setbacks.

a. Front. 20 feet.
b. Side. 5 feet.
c. Rear. 10 feet.
d. Setback exceptions. Architectural features, limited to cornices or eaves, may extend 2.5 feet into any front, side or rear setback.

4. Lot coverage. 60 percent maximum.

5. Height. 24 feet for flat roofs and 28 feet for sloped roofs.

6. Fencing. Fences shall be limited to a maximum height of 7 feet, except within the front setback where fences, hedges and walls shall be limited to 3 feet. Wing walls, where an extension of a residential or accessory structure is to be constructed may be 8 feet in height. At street intersections, no such appurtenance shall exceed 3 feet in height above street pavement grade within the triangle bounded by the right-of-way lines and a connecting line drawn between points 30 feet distant from the intersection of the right-of-way lines prolonged.

7. Trellis.

   a. Open trellis and beam construction shall be permitted to attach the garage to the dwelling structure and may also extend from the dwelling to within 3 feet of the side or rear property line. In side setbacks, the maximum height shall be 8 feet.

   b. Trellis areas shall not be considered in calculating lot area coverage; however, trellis areas shall not exceed 25 percent of the remaining open space of a developed lot.

   c. Trellis and beam construction shall be so designed as to provide a minimum of 50 percent of the total trellis area as open space for the penetration of light and air to the covered area.

8. Parking. 2 per unit in a garage.

H. **Banning Newport Ranch (PC-25)**

Banning Newport Ranch Planned Community (PC-25) is located within the Banning Ranch deferred certification area established by the Coastal Land Use Plan. The provisions of the planned community development plan are not a component of this Implementation Plan.

~~F~~I. **Corona del Mar Homes Planned Community (PC-29)**

1. ~~Density/Intensity~~Density/Intensity Limit. 12.9 dwelling units per buildable area; 40 dwelling units maximum.

2. Setbacks.

   a. Front. 15 feet on Dahlia; 10 feet on Carnation.
   b. Side. 3 feet on lots 40 wide or less; 4 feet on lots wider than 40 feet.
   c. Rear. 2.5 feet.

   d. Setback exceptions.

      (1) Eaves may extend 2.5 feet into the required front setback.

      (2) Two car garages with direct access shall be set back 2 1/2 feet from the 20 foot alley easement.

3. Height. 24 feet for flat roofs and 28 feet for sloped roofs.

4. Fencing. Fences shall be limited to a maximum height of 6 feet and shall not be allowed above 3 feet in the front setback. No fences or other obstructions shall be permitted in the 2.5 foot rear setbacks adjacent to the alley.

5. Trellis.

   a. Open trellis and beam construction shall be permitted to attach to the garage or the dwelling structure. Trellises in side setback areas may extend from the garage or the dwelling structure to the property line if they are open on three sides. Beams supporting trellises may also be located in side setbacks, but in no case shall trellises or supports extend beyond a property line into side easements. In side setbacks, the maximum height of trellises and supports shall be 9 feet.

   b. Trellis areas shall not be considered in calculating lot area coverage; trellis areas in the side setback shall not exceed 250 sq. ft.

   c. Trellis and beam construction shall be so designed as to provide a minimum of 50 percent of the total trellis area as open space for the penetration of light and air to the covered area.

6. Parking. Except for Lots 1 and 2 of Block 531, Corona del Mar which shall provide 2 covered parking spaces for each dwelling unit, a minimum of 3 parking spaces per single unit detached dwelling unit shall be required, of which a minimum of 2 will be covered. The third parking space, when provided, will be considered guest parking. A minimum of 2 parking spaces per single unit attached unit shall be required, at least one of which shall be covered.

7. Use of northeasterly side easements by owners and occupants of lots to the Northeast.

   a. The northeasterly side yard of any lot shall be used only for a portion of a required guest parking space, a walkway, or for recreational and garden area purposes by the owner or occupant of the lot adjacent to the northeast, herein known as the "User". Such purpose shall include the right of each User to plant vegetation and establish an irrigation system on the side yard easement, and to erect pools and spas subject to first obtaining any required building permits. No building permit shall be issued to the User or the User's agent for construction in northeasterly side yard easements unless evidence is submitted that an agreement between the User and the Owner, to include their successors in interest, has been recorded, which agreement provides for the improvements specified under the building permit. No pool, spa or air conditioning equipment shall be permitted on said side yard easement by the User.

   b. The northeasterly side yard easement and every part thereof, including the fence enclosing the side yard easement and the drainage system established by the Developer (other than drainage pipes or vents appurtenant to the dwelling unit occupying the lot of which the side yard

easement is legally a portion), shall be repaired, replaced and maintained continuously in a neat and orderly condition by the User.

c. The legal owner of any side yard shall have the right, at reasonable times, upon reasonable notice and in a reasonable manner, to enter upon the side yard for the purpose of maintaining, repairing or restoring the structural wall of said owner's dwelling unit, the structure of which is a part, the rain gutters and downspouts attached to said dwelling unit and, any fence belonging to said owner which adjoins or abuts the side yard.

~~G~~J. **Villa Point Apartments Planned Community (PC-30)**

1. ~~Density/Intensity~~Density/Intensity Limit. 1,500 sq. ft. per dwelling unit; 228 dwelling units maximum.

2. Setbacks.

   a. Setback from streets.

      (1) East Coast Highway: 20 feet.
      (2) Backbay Drive: 10 feet.
      (3) Jamboree Road: 20 feet.

   b. Interior lot lines with adjoining properties. 5 feet

3. Separation distance. 10 feet minimum distance between detached residential structures on same lot.

4. Height.

   a. 32 feet.

   b. One architectural tower shall be permitted with a maximum allowable foot print of 14 feet by 14 feet, a maximum allowable height of 40 feet, and shall maintain the following minimum setbacks from the surrounding streets:

      (1) East Coast Highway: 200 feet.
      (2) Jamboree Road: 500 feet.
      (3) Backbay Drive: 40 feet.

5. Fencing. Fences and walls shall not exceed 8 feet.

6. Parking. 2 spaces per dwelling unit; 1 covered.

~~H~~K. **Bayview Community (PC-32)**

1. Area 2 (Single-Family Residential).

   a. ~~Density/Intensity~~Density/Intensity Limit. 2,975 sq. ft. per dwelling unit.

   b. Setbacks.

      (1) Front.

(a) Where garages face the street, the front yard setback shall be a minimum of 5 feet from back of curb or in the event sidewalks are constructed, minimum of 5 feet from back of sidewalk.

(b) Where garages face the alley the front setback shall be a minimum of 8 feet from back of curb or in the event sidewalks are constructed, minimum of 8 from back of sidewalk.

(2) Side. 10 feet

(3) Rear.

(a) 8 feet for garages facing a street
(b) 15 feet from centerline of alley for garages facing an alley

(4) Setback exceptions. Architectural features, such as but not limited to cornices, eaves, fireplaces, bay windows and wingwalls, may extend 2.5 feet into any front, side or rear setback.

c. Separation distance. 10 feet minimum distance between detached residential structures on same lot.

d. Height. 35 feet.

e. Fencing. 8 feet; 3 feet within the front setback.

f. Trellis. Open trellis and beam construction, and patio covers where reciprocal side yard easements exist, shall be permitted within feet of a residential structure on adjacent property. Trellis and beam construction and patio covers shall be permitted to extend to within 3 feet of the residential dwelling on the adjacent property if the structure is open on three sides and the total area is 400 square feet or less. Where a corner dwelling exists adjacent to a private street or drive, open trellis and beam construction and patio covers shall be permitted to extend within 3 feet of a property line except in such cases where an intervening wall exists, such structure may not extend beyond said wall. Limited to 9 feet in height.

g. Parking. 2 covered spaces per dwelling unit.

2. Area 4 (Hotel Site).

a. Density/Intensity Limit. 300 room maximum

b. Setbacks.

(1) Front: 5 feet; 10 fronting a street.
(2) Side: 0 feet; 10 fronting a street.
(3) Rear: 0 feet; 10 fronting a street.

c. Height. 90 feet; an additional 15 feet height extension is permitted only to accommodate and screen rooftop mechanical equipment.

d. Parking.

(1)	Guest Rooms:	1 space/room
(2)	Restaurants/Lounge/ Retail Space:	First 4,000 sq. ft. – 1 space/200 sq. ft. Above 4,000 sq. ft. – 1 space/160 sq. ft.
(3)	Banquet/Meeting Rooms	1 space/200 sq. ft.

3. Area 6 (Buffer).

a. Setbacks. 20 feet from all property lines
b. Height. 18 feet

~~I~~L. **Castaways Marina (PC-37)**

1. ~~Density/Intensity~~Density/Intensity Limit. 0.3 FAR; 70 slips
2. Setbacks. 35 feet from West Coast Highway and Dover Drive
3. Height. 26 feet
4. Parking. 0.75 spaces per slip

~~J~~M. **Hoag Hospital Lower Campus (PC-38)**

1. ~~Density/Intensity~~Density/Intensity Limit. 577,899 sq. ft. maximum

2. Setbacks.

See Development Criteria Plan provided in Part 8 of this Implementation Plan (Maps)

3. Height.

See Development Criteria Plan provided in Part 8 of this Implementation Plan (Maps)

4. Parking.

a. Outpatient Services: 2.31 spaces per 1,000 sq. ft.
b. Support: 0.0 spaces per 1,000 sq. ft.
c. Administrative: 5.3 spaces per 1,000 sq. ft.
d. Residential Care: 1.0 spaces per 1,000 sq. ft.
e. Medical Offices: 4.0 spaces per 1,000 sq. ft.
f. Inpatient: 2.35 spaces per 1,000 sq. ft.

~~K~~N. **Bayview Landing (PC-39)**

~~Density/Intensity~~Density/Intensity Limit. 120 senior dwelling units; or 10,000 sq. ft. restaurant, bar or nightclub; or 40,000 sq. ft. health club. In the event senior residential is developed on this site, 30,000 S.F. of retail may be transferred to Fashion Island.

~~L~~O. **Corporate Plaza West (PC-40)**

1. ~~Density/Intensity~~Density/Intensity Limit. 159,688 sq. ft. maximum
2. Height. 32 feet

~~M~~P. **Newporter North (PC-41) – Area 2**

~~1. Lot Dimensions.~~
2. ~~Density/Intensity~~Density/Intensity Limit. 212 dwelling units
3. Setbacks.

   a. Front. 10 feet; garages with direct access shall be setback from 5 to 7 feet average or a minimum average of 20 feet and a minimum of 18 feet.

   b. Side. 5 feet

   c. Rear. 10 feet; structures, other than walls and fences, along the public bluff top area shall be setback a minimum distance of 20 feet from property line.

   d. Coastal bluff setbacks. The property line setback from the edge of a bluff shall be located no closer to the edge of the bluff than the point at which the top of the bluff is intersected by a line drawn from the solid toe of the bluff at an angle of 26.6 degrees to the horizontal. In no case shall a property line be located closer than 40 feet from the edge of a bluff or any eroded area of the bluff unless the area is restored.

   e. Setback exceptions. Decks and balconies greater than 18 inches above grade may extend into the rear yard setback up to 3 feet.

4. Height. 32 feet

5. Fencing. Fences shall be limited to a maximum height of 8 feet. Wing walls, where an extension of a residential or accessory structure, may be 6 feet in height.

6. Parking. 2 in a garage and 2 guest spaces per dwelling unit. Guest parking may be provided on street, in parking bays, or on driveway aprons (minimum 20 feet in depth).

~~N~~Q. **Upper Castaways (PC-43) – Area 1**

1. ~~Density/Intensity~~Density/Intensity Limit. 151 dwelling units maximum

2. Setbacks.

   a. Setbacks from streets. 35 feet from Dover Drive

   b. Front. 10 feet; garages with direct access shall be setback from 5 to 7 feet average or a minimum average of 20 feet and a minimum of 18 feet.

   c. Side. 5 feet

d. Rear. 10 feet; structures, other than walls and fences, along the public bluff top area shall be setback a minimum distance of 20 feet from property line.

e. Coastal bluff setback. The property line setback from the edge of a bluff shall be located no closer to the edge of the bluff than the point at which the top of the bluff is intersected by a line drawn from the solid toe of the bluff at an angle of 26.6 degrees to the horizontal. In no case shall a property line be located closer than 40 feet from the edge of a bluff or any eroded area of the bluff unless the area is restored.

f. Setback exceptions. Decks and balconies greater than 18 inches above grade may extend into the rear yard setback up to 3 feet.

3. Height. 32 feet

4. Fencing. Fences shall be limited to a maximum height of 8 feet. Wing walls, where an extension of a residential or accessory structure, may be 6 feet in height.

5. Parking. 2 in a garage and 2 guest spaces per dwelling unit. Guest parking may be provided on street, in parking bays, or on driveway aprons (minimum 20 feet in depth).

~~O~~R. **Balboa Bay Club (PC-45)**

1. Area 1 (Club Facility).

a. ~~Density/Intensity~~Density/Intensity Limit. 157 rooms; 240,000 sq. ft. of floor area

b. Setbacks.

(1) Front (West Coast Highway). 50 for buildings; 5 feet for surface parking

(2) Side. 150 feet along the Bayshores property line; landscaping, planters, walls, fencing, trellises, pergolas, parking spaces and driveways shall be allowed within the setback area subject to a 10-foot height limit. Non-habitable architectural features (e.g., trellis, awning, bay window) may encroach up to 5 feet into the side setback.

(3) Rear (Bayfront). 10 feet from the U.S. Bulkhead Line.

c. Height. 35 feet measured from 11.50 feet MSL. Architectural features in excess of the height limit may be approved by the Planning Commission.

d. Fencing.

(1) Front (West Coast Highway. Fencing shall be predominantly an open design (e.g., wrought iron) so as to maintain public views of the marina and the bay from West Coast Highway.

(2) Rear (Bayfront). No solid fencing or walls greater than 3 feet in height shall be permitted within the rear setback. Transparent windscreens may extend up to 8 feet above grade.

2. Area 2 (Lodging Facility).

a. ~~Density/Intensity~~Density/Intensity Limit. 144 dwelling units; 247,402 sq. ft. of floor area

b. Setbacks.

(1) Front (West Coast Highway). 15 feet
(2) Side. 15 feet
(3) Rear (Bayfront). 10 feet from U.S. Bulkhead Line

c. Floor Area Limit.
d. Height. 35 feet
e. Parking. 1.5 spaces per dwelling unit

~~P~~S. **Newport Beach Country Club (PC-47)**

1. Golf Club.

a. ~~Density/Intensity~~Density/Intensity Limit. 18-hole golf course; the maximum allowable gross floor area for a golf clubhouse building shall be 56,000 square feet, exclusive of any enclosed golf cart storage areas ramp and washing area. The greens keeper/maintenance buildings, snack bar, separate golf course restroom facilities, starter shack, and similar ancillary buildings are exempt from this development limit.

b. Height. 50 feet

c. Fencing. Golf Course perimeter fencing shall be wrought-iron with a maximum permitted height of 6 feet.

d. Parking.

(1) Golf Course: 8 spaces per hole
(2) Golf Clubhouse:

(a) Dining, assembly & meeting rooms: 1 per 3 seats or 1 per 35 sq. ft.

(b) Administrative Office: 4 per 1,000 sq. ft.

(c) Pro Shop: 4 per 1,000 sq. ft.

(d) Maintenance Facility: 2 per 1,000 sq. ft.

(e) Health and Fitness Facility: 4 per 1,000 sq. ft.

2. Tennis Club.

a. ~~Density/Intensity~~Density/Intensity Limit. 7 tennis courts; 3,725 sq. ft. clubhouse
b. Height. 30 feet for clubhouse
c. Parking. 28 spaces

3. The Villas.

~~Density/Intensity~~ Density/Intensity Limit. 5 single-family dwelling units

Villa Designation	Villa A TTM Lot #1	Villa B TTM Lot #2	Villa C TTM Lot #3	Villa D TTM Lot #4	Villa E TTM Lot #5
Lot Size	5,000 square feet minimum				
Lot Coverage (Maximum)	70%	65%	55%	40%	55%
Building Height	35 feet				
Building Side Setbacks	3 feet minimum				
Building Front and Rear Setbacks	5 feet minimum				
Enclosed Parking Space for Each Unit	2	2	3	3	2
Open Guest Parking Space for Each Unit	One space - could be located on the private driveway – No overhang to the private street/cul-de-sac is allowed				

4. The Bungalows.

a. ~~Density/Intensity~~Density/Intensity Limit. The maximum allowable number of the Bungalows shall be 27 short-term guest rental units. The maximum allowable gross floor area for the bungalows shall be 28,300 square feet with a 2,200 square foot concierge and guest center and a 7,500 square-foot spa facility.

b. Setbacks. 5 feet from any property line.
c. Height. 31 feet
d. Parking. 34 parking space

~~Q~~T. Santa Barbara Residential (PC-54)

1. ~~Density/Intensity~~Density/Intensity Limit. 79 dwelling units.

2. Setbacks.

a. Front. 15 feet
b. Side. 7 feet
c. Rear. 13 feet.

d. Parking Structure. 3 feet for each 1 foot or fraction thereof that the parking structure extends above adjoining grade.

3. Floor Area Limit. 1.9 FAR

4. Height. 65 feet

5. Lower-cost Visitor Mitigation Fee. Mitigation fees for the protection, enhancement and provision of lower-cost visitor serving uses at Crystal Cove State Park to off-set the loss of the priority land use in Newport Center were paid in accordance with the terms and conditions of Coastal Development Permit No. 5-07-085 (Lennar Homes/The New Home Company of Southern California, LLC).

~~R~~U. Bayside Residential (PC-55)

1. Lot Area. 5,500 sq. ft.

2. ~~Density/Intensity~~Density/Intensity Limit. 17 single-family detached dwelling units.

3. Setbacks. Perimeter Setback Exhibit" dated September 19, 2007.

4. Floor Area Limit. 1.75 x the maximum buildable area and not including maximum 400 sq. ft. attributable to required, enclosed parking.

5. Height. The baseline for measuring height shall be finished grade. The maximum permissible height of any dwelling shall be 28 feet to the mid-point of a sloping roof or to the top of a flat roof. The peak of a sloping roof shall not exceed 33 feet. If a roof-top deck is proposed, the height of any protective railing shall be no higher than 28 feet. The maximum permissible height of any accessory structure shall be 12 feet.

6. Fencing. Fences, hedges and walls shall be limited to 3 feet in height in all front yard setbacks and within rear yard setbacks of the waterfront lots (3-15). Fences, hedges, and walls shall be limited to 6 feet in height in all other rear yards, and side yards, including the perimeter wall at Bayside Drive.

   Exceptions:

   a. Hedges along the perimeter wall along Bayside Drive shall be limited to 12 feet in height.

   b. Open-work walls and fences that are 90 percent of the wall plane open (wrought iron in combination with pilaster) up to a maximum of 6 feet in height are permitted at the side property line of each waterfront lot (Lots 3-15) and extending into the rear yard from the setback line to the waterfront property line.

   c. Walls that extend in the same plane as the front (driveway street-side) wall of a dwelling into a required side yard for purposes of enhancing the entrance of an entry courtyard may be up to 12 feet in height.

7. Parking. A minimum of 2 garage parking spaces shall be provided per dwelling. In addition, a minimum of 2 parking spaces (side-by-side, not tandem) shall be provided on the driveway to each garage of each single-family dwelling. A total of 19 curb-side parking spaces shall be provided on the street that provides access to each buildable lot.

A. **Lido Peninsula (PC-6).** Land uses and development limits are established by use permits and the polices of the Coastal Land Use Plan.

1. 630-670 Lido Park Drive (CM Area).

    a. Land Use. Land uses allowed within the CM Coastal Zoning District (Table 21.20-1).

    b. Intensity. Floor area to land area ratio of 0.5

2. Cannery Village - 700 Lido Park Drive (RM Area).

    a. Land Use. Land uses allowed within the RM Coastal Zoning District (Table 21.18-1).

    b. Density. 34 dwelling units.

3. Lido Peninsula Resort (RM Area).

    a. Land Use. Land uses allowed within the RM Coastal Zoning District (Table 21.18-1).

    b. Density. 217 dwelling units.

4. Lido Peninsula Commercial (CM Area).

    a. Land Use. Land uses allowed within the CM Coastal Zoning District (Table 21.20-1).

    b. Intensity. 139,840 sq. ft. of floor area.

B. **Newport Dunes (PC-48).** Land uses and development limits are established pursuant to the Newport Dunes Settlement Agreement.

1. Family Inn. A 275-room “Family Inn”), not exceed 500,000 square feet of gross floor area.

2. Interim Dry Boat Storage. Up to 450 dry boat storage spaces as an interim use and pending construction of the Family Inn.

3. Restaurant Uses. Up to 32,000 square feet of net public area of restaurant facilities.

4. Commercial Uses. Up to 12,000 square feet of gross floor area for commercial, office, storage or retail uses.

5. RV Spaces and Facilities. A 444-space recreational vehicle park with recreation vehicle support center, including a convenience store, equipment rental facility, a recreation/meeting room, clubhouse, restrooms, showers, laundry facility, storage, swimming pool, and maintenance facility. The recreational vehicle park spaces may be used to provide campground areas and alternative recreational vehicles as a means of providing alternative and lower cost overnight accommodations.

6. Boat Slips/Marina. A 430-boat slip marina.

7. Marina Clubhouse and Storage. Up to 9,600 square feet of floor area for a marina clubhouse and for storage facilities.

8. Caretaker Residences. One caretaker residence for the restaurant uses and one caretaker residence for the recreational vehicle park.

9. Temporary Enclosure. One temporary enclosure for specified events.

C. **Other Planned Communities**. The approved site plan serves as the Planned Community Development Plan for Bayside Village Mobile Home Park (PC-1), Park Newport (PC- 07), ~~Bayside Village Boat Launch and Storage (PC-09)~~, Promontory Point (PC-12), Newport Crest (PC-14), Newport Terrace (PC-16), Emerald Village (PC-36), Upper Newport Bay Regional Park (PC-44), Armstrong Garden (PC-47), and Marina Park (PC-51). Land uses and development shall be in substantial conformance with the approved site plan. Land use and development limits are provided in Table 21.26-10. The site plans are provided in Part 8 of this Implementation Plan (Maps).

Planned Community	**PC No.**	**Land Use**	**Development Limit**
Bayside Village MHP	PC-1	Multiple-unit residential	15 dwelling units/acre
Park Newport	PC-7	Multiple-unit residential	1306 dwelling units
Promontory Point	PC-12	Multiple-unit residential	520 dwelling units
Newport Crest	PC-14	Multiple-unit residential	460 dwelling units
Newport Terrace	PC-16	Multiple-unit residential	281 dwelling units
Emerald Village	PC-36	Private institutional	1.0 floor area ratio
Upper Newport Bay Regional Park	PC-44	Open space	Regional park facilities, passive open space or interpretive facilities related to the Upper Newport Bay Ecological Reserve or the on-site cultural resources. Structures on this site shall not exceed 10,000 sq.ft.
Armstrong Garden	PC-47	General commercial	0.10 floor area ratio
Marina Park	PC-51	Parks and recreation	Per Coastal Development Permit 5-10-229, as amended by the Coastal Commission.

~~**21.26.075 – Subsequently Adopted and Other Planned Communities**~~

~~A. **Newport Banning Ranch (PC-25)**. The Newport Banning Ranch Planned Community (PC-25) is located within the Banning Ranch deferred certification area established by the~~

~~Coastal Land Use Plan. The provisions of the planned community development plan are not a component of this Implementation Plan.~~

~~B. **Back Bay Landing (PC-9)**. The Back Bay Landing Planned Community Development Plan is incorporated herein by reference.~~

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

Prepared February 11, 2014
Adopted February 25, 2014, Ordinance No. 2014-4 (PA2011-216)
Amended April 26, 2016, Ordinance No. 2016-8

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LIST OF ACRONYMS

ABC	California State Department of Alcoholic Beverage Control
CDP	Coastal Development Permit
CLUP	Coastal Land Use Plan
CM	Recreational and Marine Commercial
CUP	Conditional Use Permit
ESA	Environmental Study Area
ESHA	Environmentally Sensitive Habitat Area
LID	Low Impact Development
HHW	Highest High Water
MLLW	Mean Lower Low Water
MU-W2	Mixed-Use Water-Related 2 (General Plan Designation)
MU-W	Mixed-Use Water-Related (CLUP Designation)
NAVD 88	North American Vertical Datum of 1988
OCSD	Orange County Sanitation District
OCTA	Orange County Transportation Authority
PC-9	Back Bay Landing Planned Community
PCDP	Planned Community Development Plan
WQMP	Water Quality Management Plan

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

A. Introduction

The Back Bay Landing site is envisioned to be developed as an integrated, mixed-use waterfront village on an approximately 7-acre portion of a 31.5-acre parcel located adjacent to the Upper Newport Bay in the City of Newport Beach. The City of Newport Beach Municipal Code allows a Planned Community Development Plan (PCDP) to address land use designations and regulations in Planned Communities. The Back Bay Landing PCDP serves as the controlling zoning ordinance for the site and is authorized and intended to implement the provisions of the Newport Beach General Plan and Coastal Land Use Plan.

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

B. Project Location

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

C. Purpose and Objectives

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

Implementation of the PCDP will:

- Provide a high quality mixed-use, marine-related, visitor-serving commercial development with integrated residential units and a unified architectural and landscape theme.

- Implement the MU-W2 (Mixed Use Water-Related 2) General Plan and MU-W (Mixed Use Water Related) Coastal Land Use Plan categories on an underutilized bayfront location in a manner that provides for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related land uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Freestanding residential uses shall be prohibited.

- Maintain and expand core coastal dependent and coastal-related land uses, including the development of marina parking and enclosed dry stack boat storage and launching facility.

- Provide new housing opportunities in response to demand for housing, reduce vehicle trips and encourage active lifestyles by increasing the opportunity for residents to live in proximity to jobs, services, entertainment, and recreation.

- Protect and enhance significant visual resources from identified public vantage points, such as Coast Highway, Castaways Park, and Coast Highway-Bay Bridge, to the bay and the cliffs of upper Newport Beach through view corridors designed into the project. New public view opportunities will be created on-site.

- Expand bayfront access to and along the bay where it does not exist at the present time, in a manner that protects environmental study areas (ESA) and/or environmentally sensitive habitat areas (ESHA) and does not adversely impact existing private residences adjacent to the site.

- Provide continuous public coastal access with a new minimum 12-foot-wide bayfront access promenade along the bayfront edge of Planning Areas 1, 2, and 3. This new, public bayfront promenade will link the public docks and marina property south of the Coast Highway-Bay Bridge along the bayfront, to the Newport Dunes recreational area. In addition, bike lanes and pedestrian access will be provided along Bayside Drive from the intersection of Bayside Drive/East Coast Highway intersection running northerly to the terminus of Bayside Drive at the Newport Dunes recreational area.

D. Relationship to the Newport Beach Municipal Code

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

E. Relationship to Design Guidelines

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

Development Limits and Land Use Plan

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

Table 1
Development Limits by Planning Area[1,2]

Land Use	Planning Area 1	Planning Area 2	Planning Area 3	Planning Area 4	Planning Area 5	• Total Per • Land Use
Commercial	49,144 sf	8,390 sf	0	4,000 sf	0	**61,534 sf**
Residential	49 du (85,644 sf)	0	0	0	0	**49 du (85,644 sf)**
Marina	0	0	0	0	220 wet slips	**220 wet slips**
Dry Stack Boat Storage	32,500 sf (140 spaces)	0	0	0	0	**32,500 sf (140 spaces)**
TOTAL						**179,679 SF**

Notes:
(1) All limits expressed as "sf" are gross square feet as defined in the Newport Beach Zoning Code.
(2) Development limits are subject to General Plan Land Use Plan and Table LU2, Anomaly Caps.

A. Planning Area 1 – Mixed-Use Area

The primary land-side parcel immediately north of East Coast Highway to the northwest is intended to allow commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related land uses and visitor-serving uses, as well as allow for the development of mixed-use structures with residential uses above the ground floor. Freestanding residential uses shall be prohibited. Priority uses include retail, restaurants, boat storage, marine and boat sales, boat rentals, boat service/repair, and recreational commercial uses such as kayak and paddle board rentals.

The total gross floor area of Planning Area 1 shall be limited to 49,144 square feet of marine-related and visitor-serving commercial and recreational uses; a new 32,500-square foot full-service and fully enclosed dry stack boat storage (up to a maximum of 140 boat spaces) and launching facility; and a maximum of 49 residential units within a maximum of 85,644 square feet of residential floor area.

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

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

1. A minimum of 50 percent of the total proposed gross floor area located within Planning Area 1 and 4 shall be limited to non-residential uses. This non-residential use may consist of any combination of visitor-serving retail, restaurants, marine boat sales, office, and/or enclosed dry stack boat storage.

2. At minimum, a total of 68,955 square feet of non-residential gross floor area shall be developed within Planning Area 1 and 4.

3. The enclosed boat storage, public promenade and public plazas shall be sited adjacent to the bayfront, with public launch area and boat storage on the western/northwestern bayfront edge of the site, adjacent to the existing Pearson's Port seafood market. .

B. Planning Area 2 - Recreational and Marine Commercial

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

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

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

Planning Area 3 consists of an existing narrow strip of private marina access walkway and non-publicly accessible beach area located between the Bayside Village Mobile Home Park and Bayside Marina, which provides marina lessee access to private boat slips and docks. Development shall incorporate a minimum 12-foot-wide public pedestrian and bicyclist promenade within the existing marina access walkway and also across the private beach/submerged fee owned land with the width necessary to complete a continuous connection to the existing or planned regional trails and paths, and to the Newport Dunes recreational area. Allowed improvements shall be limited to public promenade, guardrails, seawall/bulkhead replacement, landscaping, screening and lighting. No other development shall occur within this walkway and the beach area.

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

Planning Area 4 is a narrow strip of land located on the eastern project boundary and development shall be limited to a gross floor area of 4,000 square feet. This area is intended to be re-used primarily as standard sized parking for residents and guests of the Bayside Village Mobile Home Park. Additional standard sized parking will be provided for the Bayside Village Marina tenants. New replacement storage, replacement restrooms, laundry facilities and lockers will be built for the Bayside Village Mobile Home Park and Marina tenants. A new replacement gate entry for this area is allowed. Development shall incorporate a minimum 12-foot-wide public pedestrian and bicyclist promenade with the width necessary to complete a continuous connection to the existing or planned regional trails and paths, and to the Newport Dunes recreational area. No other uses shall be allowed in this storage/parking/facilities area.

E. Planning Area 5 - Submerged Fee-Owned Lands

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

II. Permitted Uses

Permitted uses are those uses set forth in this Section for each Planning Area as shown on Table 2, Permitted Uses. The uses identified within the table are not comprehensive

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

Table 2
Permitted Uses

Uses	**Planning Areas**				
	Planning Area 1	**Planning Area 2**	**Planning Area 3**	**Planning Area 4**	**Planning Area 5**
Commercial Recreation and Entertainment	CUP	-	-	-	-
Cultural Institution	P	P	-	-	-
Eating and Drinking Establishments					
Bar, Lounge, and Nightclubs	-	-	-	-	-
Fast Food (No Drive Thru)	P*	-	-	-	-
Food Service, No Late Hours	P*	-	-	-	-
Food Service, Late Hours	CUP	-	-	-	-
Take-Out Service, Limited	P	P	-	-	-
Take-Out Service, Only	P	P	-	-	-
Marina	-	-	-	-	MC Title 17
Marina Support Facilities	P	P	-	P	-
Marine Rentals and Sales					
Marine Retail Sales	P	P	-	-	-
Boat Rentals and Sales	MUP	MUP	-	-	-
Marine Services	MUP	MUP	-	-	-
Entertainment and Excursion Vessels	CUP	-	-	-	-
Office	P	P	-	-	-
Personal Services					
General	P	-	-	-	-
Restricted	MUP	-	-	-	-
Residential (Located above 1st floor)	P	-	-	-	-
Visitor-Serving Retail	P*	P*	-	-	-
Utilities					
Wastewater Pump Station	P	P	-	-	-

P=Permitted
CUP=Conditional Use Permit
MUP=Minor Use Permit
*=A Minor Use Permit is required for the sale of alcohol
-= Not Permitted

III. Development Standards

The following site development standards shall apply:

A. Setback Requirements

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

1. Street Setback

a) East Coast Highway - 0 feet (provided a minimum 10-foot landscape buffer is provided to the back of sidewalk)

b) Coast Highway-Bay Bridge - 20 feet to edge of bridge (public access connections, kayak/paddleboard rentals, storage, and launch uses may be permitted within this setback and beneath the bridge, subject to Site Development Review).

c) Bayside Drive - 5 feet

2. Perimeter Setback

a) Abutting Non-residential - 0 feet

b) Abutting Existing Residential - 25 feet, except:

i. In Planning Area 1, public restrooms and marina lockers may provide a minimum 5-foot setback.

ii. In Planning Area 4, a minimum 5-foot setback may be provided.

3. Bayfront Setback

a) Bulkhead - 15 feet from constructed bulkhead wall to allow for a minimum 12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

b) No Bulkhead

i. In Planning Area 1, 15 feet from the Highest High Water contour elevation noted as 7.86’ above Mean Lower low Water (0.0’) or 7.48’/NAVD 88 to allow for a minimum

12-foot-wide public bayfront promenade and a minimum 3-foot-wide landscape area.

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

4. Setback Encroachments

a) Fences, Walls, and Hedges

i. Permitted within the Perimeter Setback Abutting Existing Residential up to a maximum height of 8 feet.

ii. Within Bayfront Setback, see subsection c. below.

iii. Permitted in all other setback areas up to a maximum height of 42 inches.

b) Architectural Features

i. Roof overhangs, brackets, cornices and eaves may encroach 30 inches into a required Perimeter Setback area, provided a minimum vertical clearance above grade of 8 feet is maintained.

ii. Decorative architectural features (e.g., belt courses, ornamental moldings, pilasters, and similar features) may encroach up to 6 inches into any required Perimeter Setback.

c) Bayfront Setback

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

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

B. Permitted Height of Structures

1. Building Height

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

a) As illustrated on Exhibit 3, Building Heights, 100 feet from back of curb along Bayside Drive within the eastern portion of Planning Area 1, maximum allowable building height shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.

b) Within Planning Area 1, maximum allowable height for any parking structure shall not exceed 30 feet for flat roofs and 35 feet for sloped roofs.

c) Maximum allowable building height within Planning Area 2 shall not exceed 26 feet for flat roofs and 31 feet for sloped roofs.

d) Within Planning Area 4, maximum allowable building height shall not exceed 20 feet for flat roofs and 25 feet for sloped roofs.

~~e) All other exceptions to height shall be regulated pursuant to Section 20.30.060.D of the Newport Beach Municipal Code.~~

2. Grade for the Purposes of Measuring Height

a) Within Planning Area 1, height shall be measured from the established baseline elevation of either 11 feet or 14 feet (NAVD 88) as illustrated on Exhibit 3, Building Heights, or as determined by the Sea Level Rise and Shoreline Management Plan.

b) Within Planning Area 2, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)

c) Within Planning Area 4, height shall be measured from the established baseline elevation of 12 feet (NAVD 88)

C. Residential Units

1. Open Space

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

non-residents and customers of non-residential uses. However, sharing of common open space may be allowed, subject to Site Development Review, when it is clear that the open space will provide a direct benefit to project residents. Common open space uses may be provided on rooftops for use only by project residents.

b) Private Open Space - Five percent of the gross floor area for each unit. The minimum dimension (length and width) shall be 6 feet. The private open space shall be designed and located to be used by individual units (e.g., patios, balconies, etc.).

2. **Non-residential Use Required on Ground Floor** - All of the ground floor frontage of a mixed-use structure shall be occupied by retail and other compatible non-residential uses, with the exception of common/shared building entrances for residences on upper floors.

3. **Sound Mitigation** - An acoustical analysis report, prepared by an acoustical engineer, shall be submitted describing the acoustical design features of the structure that will satisfy the exterior and interior noise standards. The residential units shall be attenuated in compliance with the report.

4. **Buffering and screening -** Buffering and screening shall be provided in compliance with Municipal Code Section 20.30.020 (Buffering and Screening). Mixed-use projects shall locate loading areas, parking lots, driveways, trash enclosures, mechanical equipment, and other noise sources away from the residential portion of the development to the greatest extent feasible.

5. **Notification to owners and tenants** - A written disclosure statement shall be prepared prior to sale, lease, or rental of a residential unit within the development. The disclosure statement shall indicate that the occupants will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment (e.g., noise from boats, planes, commercial activity on the site and vehicles on Coast Highway) and potential nuisances based upon the allowed uses in the zoning district. Each and every buyer, lessee, or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. A covenant shall also be included within all deeds, leases or contracts conveying any interest in a residential unit within the development that requires: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is

located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

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

D. Parking Requirements

1. General Standards

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

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

2. Parking Management Plan

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

a) The most remote space is located within a convenient distance to the use it is intended to serve.

b) The probable long-term occupancy of the structures, based on their design, will not generate additional parking demand.

c) The applicant has provided sufficient data, including a parking study if required by the Director, to indicate that there is no conflict in peak parking demand for the uses proposing to make joint-use of parking facilities.

d) The property owners, if more than one, involved in the joint-use of parking facilities shall record a parking agreement approved by the Director and City Attorney. The agreement shall be recorded with the County Recorder, and a copy shall be filed with the Department.

e) A parking management plan shall be prepared to address potential impacts associated with a reduction in the number of required parking spaces.

3. Access, location, and improvements. Access, location, parking space and lot dimensions, and parking lot improvements shall be in compliance with the Development Standards for Parking Areas Section of the Municipal Code.

E. Landscaping

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

F. Seawall/Bulkhead Standards

Coastal hazards shall be considered consistent with Implementation Plan Chapter 21.30 of the certified Local Coastal Plan and Policy 2.1.9-4 of the certified Land Use Plan. ~~As shown on Exhibit 4, Seawall/Bulkhead Section, a new bayfront seawall/bulkhead may be constructed along the bayfront to protect existing and future development, subject to the following:~~

1. Planning Area 1

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

2. Planning Area 2

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

3. Planning Area 3

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

b) Improvements are permitted to provide the required public access connection across, over or around the private beach and intertidal area and shall take into consideration and be consistent with measures identified in the Sea Level Rise and Shoreline Management Plan to adapt to sea level rise and to ensure the long term protection of public improvements, coastal access and adjacent existing residential areas.

4. Planning Area 4 and 5

a) No bulkheads shall be permitted.

5. General Requirements

a) The minimum top of bulkhead elevation shall be 10 feet (NAVD 88) or a higher elevation if the Sea Level Rise and Shoreline Management Plan requires a higher elevation to address sea level rise.

b) Seawalls, bulkheads, revetments and other such construction that alters the existing shoreline processes shall be permitted when required to serve coastal dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply. In addition, such improvements shall only be permitted when found consistent with applicable sections of the Coastal Act and City's Coastal Land Use Plan policies.

c) Bulkheads shall be designed to provide access points to the shoreline.

G. Diking, Filling, and Dredging Standards

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

H. Public Bayfront Promenade and Trail

A continuous, minimum 12-foot-wide bayfront access promenade shall be constructed along the bayfront edge of Planning Areas 1, 2, and 3. This new, public bayfront promenade will link the public docks and marina property south of the Coast Highway-Bay Bridge along the bayfront and to the Newport Dunes recreational, as illustrated in Exhibit 5, Public Spaces, and 6, Coastal Access and Regional Trail Connections. The construction of the promenade shall include a connection across the private beach/submerged fee owned land located within Planning Area 3 necessary to complete a continuous path. The design details of the public bayfront promenade shall be submitted with Site Development Review. The public bayfront promenade shall comply with the following requirements:

1. An easement for public access shall be provided to the City along the entire length of the proposed public bayfront promenade. The easement area shall be maintained in good condition and repaired at no cost to the City.

2. The public bayfront promenade shall be accessible to pedestrians and bicyclists, and shall extend along the waterfront under the Coast Highway-Bay Bridge and shall connect to an existing trail system on the south side of East Coast Highway.

3. The bayfront promenade shall interface with restaurants and outdoor dining areas, the enclosed dry stack boat storage, public plaza, and marine boat service areas to the maximum extent feasible. Amenities such as seating, trash enclosures, lighting, and other pedestrian-oriented improvements shall be provided along its length where appropriate, provided a 12-foot-wide clear path is maintained.

4. Bayside Drive shall be improved on both sides with a new Class 2 (on-street) bike lane up to Bayside Way and a new Class 3 (shared-use) bikeway east of Bayside Way. A Class 1 (off-street) bikeway and pedestrian trail will also be provided on the east side of Bayside Drive that originates at the Bayside Drive / East Coast Highway intersection and runs northerly to the terminus of Bayside Drive, as shown on Exhibit 6, Coastal Access and Regional Trail Connections, to accommodate both cyclists and pedestrians. This improvement shall serve as an enhanced link between the new public bayfront promenade and the existing City and County trail systems and the Newport Dunes recreation area.

5. Trails shall be located and designed consistent with Coastal Land Use Plan (CLUP) Policy 3.1.1-1 and the Coastal Act, with appropriate landscaping and screening where necessary to protect the privacy of adjacent new or existing Bayside Village Mobile Home Park residents or residential uses, consistent with Public Resources Code section 30214 (Coastal Act).

I. Vehicular Circulation

1. Primary vehicular and pedestrian access to the site shall be set back from its current location on Bayside Drive to approximately 200 feet north of the East Coast Highway intersection, as shown on Exhibit 7, Vehicular Circulation, and Exhibit 8, Revised Vehicular Circulation and Parking. This project driveway will service both inbound and outbound movements, improve the existing driveway connection further into the site, and will be relocated approximately 45 feet north of its current location. Any guest parking that is displaced in the adjacent mobile home park complex as a result of this new driveway alignment shall be replaced within the mobile home park complex or within Planning Area 4 on the east side of Bayside Village Mobile Home Park.

2. Intersection improvements at Bayside Drive shall maintain the existing left-turn lane, add a shared left-turn/through lane, and add an exclusive right-turn lane on the southbound approach of the signalized intersection with East Coast Highway. Project access enhancements shall include an exclusive left-turn lane on the northbound approach of the Bayside Drive and project driveway intersection.

3. Primary circulation within the development shall accommodate adequate fire truck turn-around. Emergency vehicle access to and from Bayside Village Mobile Home Park to the site shall be provided consistent with Exhibit 8, Revised Vehicular Circulation and Parking.

4. An optional secondary access may be constructed, subject to the review and approval of the Public Works Department, California Department of Transportation, Orange County Transportation Authority (OCTA), and the Orange County Sanitation District (OCSD) that would add an exclusive right-turn lane along westbound East Coast Highway, as shown on Exhibit 7, Vehicular Circulation. This connection would be located approximately 430 feet west of the Bayside Drive intersection with East Coast Highway, and would allow for inbound right-turn movements only. Outbound movements at this connection point would be prohibited.

J. Lighting

A detailed lighting plan with lighting fixtures and standard designs shall be submitted with the Site Development Review application. The lighting plan shall

illustrate how all exterior lighting is designed to reduce unnecessary illumination of adjacent properties, conserve energy, minimize detrimental effects on sensitive environmental areas, and provide minimum standards for safety. At minimum, exterior lighting shall comply with the following:

1. **Protection from glare**.

    a. **Shielding required**. Exterior lighting shall be shielded and light rays confined within boundaries of the site.

    b. **Light spill prohibited**. Direct rays or glare shall not create a public nuisance by shining onto public streets, adjacent sites, or beyond the perimeter of the bayfront promenade.

    c. **Maximum light at property line.** No more than one candlefoot of illumination shall be present at the property line.

    d. **Maximum light beyond bayfront**. No more than 0.25 candlefoot of illumination shall be present beyond the perimeter of the bayfront promenade.

2. **Photometric study**. A photometric study plan shall be incorporated into the lighting plan to ensure lighting will not negatively impact surrounding land uses and adjacent sensitive coastal resource areas.

3. **Lighting fixtures**. Exterior lights shall consist of a light source, reflector, and shielding devices so that, acting together, the light beam is controlled and not directed across a property line or beyond the bayfront promenade.

4. **Parking lot light standards**. Light standards within parking lots shall be the minimum height required to effectively illuminate the parking area and eliminate spillover of light and glare onto adjoining properties. To accomplish this, a greater number of shorter light standards may be required as opposed to a lesser number of taller standards.

K. Signs

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

1. Temporary Signs- Temporary signs that are visible from public right-of-ways and identify new construction or remodeling may be displayed for the duration of the construction period beyond the 60-day limit. Signs mounted on construction fences are allowed during construction and may be rigid or fabric.

2. Directional signs oriented to vehicular or pedestrian traffic within internal drives or walkways, such as electronic display signs, kiosk signs, internal banners, and three-dimensional sculptural advertising associated with individual businesses are allowed, or similar, and are not regulated as to size, content, or color; however, signs shall require permits and shall be subject to the review of the City Traffic Engineer to ensure adequate sight distance in accordance with the provisions of the Municipal Code.

L. Utilities

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

M. Sustainability

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

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

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

N. Public Improvements

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

O. Hazards Assessment

A site-specific hazards assessment shall be submitted with the Site Development Review application addressing the potential for erosion, flooding and/or damage from natural forces including, but not limited to, tidal action, waves, storm surge, or seiches, prepared by a licensed civil engineer with expertise in coastal processes. The conditions that shall be considered in a hazards analysis are: a seasonally eroded beach/shoreline combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 years) projections for sea level rise using the best available science; storm waves from a 100-year event or a storm that compares to the 1982/83 El Nino event.

P. Sea Level Rise and Shoreline Management

A sea level rise and shoreline management plan shall be prepared for the site and submitted with the Site Development Review application. The plan shall address shoreline areas of the site subject to tidal action, flooding, wave hazards and erosion, and incorporate measures to adapt to sea level rise over time and provide for the long term protection and provision of public improvements, coastal access, public opportunities for coastal recreation, and coastal resources including beach and shoreline habitat.

IV. Design Guidelines

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

The purpose of the Design Guidelines is:

- To provide the City of Newport Beach, the California Coastal Commission, and future residents and visitors with the necessary assurances that, when completed, the development will be built in accordance with the design character proposed herein;

- To provide guidance to developers, builders, engineers, architects, landscape architects and other professionals in order to maintain the desired design character and appearance of the project, as well as expand upon these concepts in order to maximize the success of the development consistent with market needs, aesthetic satisfaction, and community goals;

- To provide guidance to the City Staff, Planning Commission, City Council members and the California Coastal Commission in the review of future development submissions; and

- To encourage building plans that allow flexibility for innovative and creative design solutions that respond to contemporary market trends.

A. Architectural Theme

The development shall be designed with a Coastal architectural theme. This architectural theme is influenced by the marine climate of the California coastline, with varied historical vernacular and casually elegant palette, with building forms and massing that define and create unique and often seamless indoor/outdoor spaces. The project will follow principles of quality design, exhibiting a high level of architectural standards and shall be compatible with the surrounding area, sensitive to scale, proportion, and identity with a focus on place-making. Massing offsets, variation of roof lines, varied textures, openings, recesses, and design accents on all building elevations shall be provided to enhance the architectural design. The intent is not to select a historically specific or rigid architectural style for the project, but to create an active, mixed-use village.

The project should accommodate marine-oriented and visitor-serving retail, restaurants, enclosed dry stack boat storage, and residential uses, while integrating the public spaces, bayfront promenade and plaza in a pedestrian-friendly manner. The "village look" may be expressed through several techniques. Visual interest may be created by multiple one-, two- and three-level buildings, with varied roof heights and planes. Light and shadows may be created through the use of trellises, decks, and canopies. The planes of the buildings should include recesses and vertical elements to create the village feeling. Varied roof heights should communicate the break-up of architectural forms.

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

B. Site Planning

1. As illustrated in Exhibit 12, Conceptual Site Plan, the development shall be designed as an integrated, mixed-use waterfront village that encourages public access to and along the bayfront.

2. A public bayfront promenade shall be developed between the Balboa Marina development to the south and the Newport Dunes and the regional trail system to the east. Special features of this public bayfront promenade shall include coastal plazas, vista points and connections with City/County trails and Newport Dunes as shown on Exhibit 5, Public Spaces.

3. Back Bay Landing restaurants, visitor-serving commercial and plaza areas shall be accessible to the community by public and private vehicular transportation, pedestrian and bike paths, and public dock space.

4. Scenic view corridors should be incorporated throughout the project to maintain or enhance existing coastal views from East Coast Highway as shown on Exhibit 13, East Coast Highway View Corridors.

5. Outdoor dining and plaza areas shall be designed to interface with the street and bayfront. Siting of outdoor dining facilities shall minimize potential impacts on occupants of adjacent residential units.

6. The development shall create a strong pedestrian interface with the waterfront, maximizing accessibility and providing visual corridors enhancing the public/visitor experience.

7. Buildings should be arranged to create opportunities for public gathering spaces, encourage outdoor living and invite patronage. Mixed-use areas should emphasize pedestrian orientation by utilizing features such as plazas, courtyards, interior walkways, trellises, seating, fountains, and other similar elements.

8. The development shall promote connectivity throughout the village and to adjacent developments and trails systems through the use of shared facilities such as driveways, parking areas, pedestrian plazas and walkways.

9. Ground level equipment, refuse collection areas, storage tanks, infrastructure equipment and utility vaults should be screened from public right-of-way views with dense landscaping and/or walls of materials and finishes compatible with adjacent buildings.

10. Site-specific analyses (wind patterns, noise assessments, etc.) and special design features shall be incorporated into the proposed buildings surrounding the OCSD pump station facility to offset potential noise and odor control issues associated with the existing operations of the facility. Indoor air conditioned spaces within the development shall include the installation of odor filters, such as activated carbon filters or similar, to filter indoor air.

C. Building Massing

1. Avoid long, continuous blank walls, by incorporating a variety of materials, design treatments and/or modulating and articulating elevations to promote visual interest and reduce massing.

2. Layering of wall planes and volumes are encouraged to provide rhythm, dynamic building forms, and shadows.

3. Building massing should consist of a mix of heights to add visual interest and enhance views to the bay above or between buildings.

4. Taller buildings should use articulation to create visual interest. Articulation should include vertical and horizontal offsets, use of multiple materials and finishes, and the entry/corner elements.

5. Towers or other vertical/prominent building features should be used to accentuate key elements such as building entries, pedestrian nodes, plazas, and courtyards.

6. To maintain a low profile at the corner of East Coast Highway and Bayside Drive, the development should consist of reduced height commercial retail

buildings closest to the intersection and may step up in height further away from the intersection, as shown on Exhibit 3, Building Heights.

D. Facade Treatments

1. Ground floors of commercial buildings should have storefront design with large windows and entries encouraging indoor and outdoor retailing.

2. Architectural elements that create sheltered pedestrian areas are encouraged.

3. The quality of the pedestrian environment should be activated by architecturally vibrant storefronts with features such as planter walls, outdoor seating and dining spaces, enhanced trellises, accent or festive lighting, awnings or canopies, large transparent windows, recessed openings and entry ways.

4. Create a unified and consistent alignment of building facades that define and address the street and waterfront.

5. Horizontal definition between uses, generally between the first and second floor is strongly encouraged.

6. For residential uses, balconies and sill treatments are encouraged on upper stories to articulate the facade.

7. Building facades should respect the public realm edge by controlling and limiting encroachments that could impede pedestrian connectivity and retail exposure. Building designs will be encouraged to support and activate the public realm and plazas, and encourage accessibility.

8. “Back of House Areas” and service corridors shall be avoided along primary street and waterfront elevations.

9. Roof-mounted mechanical equipment shall not be visible in any direction from a public right-of-way, as may be seen from a point 6 feet above ground level, including from the Coast Highway-Bay Bridge curb elevation. In addition, screening of the top of the roof-mounted mechanical equipment may be required if necessary to protect views.

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

in this PCDP or architectural design of adjacent developments, as determined appropriate – during the Site Development Review process.

E. Public Views

1. As illustrated on Exhibit 13, East Coast Highway View Corridors, buildings should be oriented to maximize view opportunities while minimizing the visual impact of the building on existing view sheds.

2. Buildings proposed adjacent to the Coast Highway-Bay Bridge shall preserve coastal views that are afforded due to the differential in height between the elevation of the bridge and the elevation of the site. The public coastal views shall be consistent with Section 4.4.1-8 of the Newport Beach Coastal Land Use Plan policies.

3. A pedestrian view corridor shall be designed at the southeast corner of Bayside Drive and East Coast Highway, shown as View Corridor 2 on Exhibit 13, East Coast Highway View Corridors, allowing northbound pedestrians and motorists to see into the project and the coastal view beyond.

4. The enclosed dry stack boat storage building shall be designed with multiple heights to create a distinct view corridor from East Coast Highway to the Bay, illustrated on Exhibit 13, East Coast Highway View Corridors. This corridor shall be visible to north and south bound pedestrians, bicyclists and motorists.

5. The development shall be designed to frame existing bay views and should create new bay views where they are currently blocked by fencing and outdoor vehicle/boat storage.

F. Parking and Parking Structure

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

2. Convenient, well-marked and attractive pedestrian access shall be provided from parking areas and structures to buildings.

3. Parking facilities should be physically separated for non-residential uses and residential uses, except for residential guest parking. If enclosed parking is provided for an entire mixed-use complex, separate areas/levels shall be provided for non-residential and residential uses with separate building entrances, whenever possible.

4. A semi-subterranean level should be incorporated, if feasible, to minimize height and bulk of parking structure.

5. Parking structures shall be screened from the public right–of-way to the maximum extent feasible. Portions of the structure that cannot be screened shall incorporate decorative screening, landscape walls, artistic murals, or application of stylized facades.

6. Commercial retail and residential uses should wrap and mask the parking structure.

7. The parking structure shall complement the design vocabulary of the attached or adjacent buildings, and incorporate form, materials, color, and details from the attached or adjacent buildings.

8. Adequate parking that is located within a convenient distance from the use it is intended to serve shall be provided for all uses proposed on-site, as well as marina users, displaced Bayside Village Mobile Home Park guest parking, and for public access. General parking locations are shown on Exhibit 14, Parking Plan.

9. The upper level of the parking structure shall be designed to eliminate vehicle headlight and rooftop lighting spill-over.

10. To encourage alternative means of transportation, the parking structure shall incorporate bicycle parking storage accommodations, and electric vehicle charging stations.

G. Public Spaces

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

1. An elevated coastal public view plaza is strongly encouraged. This elevated plaza can provide exceptional public coastal view opportunities of Newport Harbor and Upper Newport Bay.

2. A pedestrian and automobile plaza should be incorporated into the design that seamlessly and safely blends pedestrian, bicycle and vehicular movement. This plaza may provide an opportunity for valet parking, provided a valet operation plan is reviewed and approved by the City. Bollards and potted plants should define the plaza edge in a park-like setting and should visually connect the east and west ends of the mixed-use project area as the center point of the project, while still allowing unhindered pedestrian movement to the retail areas and public bayfront promenade.

3. Restaurants shall be designed to be accessible from the public bayfront promenade and should provide both indoor and outdoor dining areas with scenic coastal views of the bay.

4. Vendor carts selling specialty items are encouraged in the outside plazas and along retail walkways to enhance the shopping or dining experience by activating the plaza areas. However, vendor carts shall not be permitted within the 12-foot-wide public bayfront promenade.

5. Passive recreation opportunities and waterfront viewing shall be provided along the public bayfront promenade.

6. A public launching area and parking for kayak and paddleboard users shall be incorporated into the development.

7. New marina boat-slip tenant lockers shall be provided near the entry to the Bayside Village Marina.

8. Public restrooms for visitors to the site shall be provided along the public bayfront promenade.

H. Landscaping

1. The landscaping should reflect the project's coastal marine location and provide visual ties to the coastal bluffs, sand beaches, tidelands and wetlands, tide pools, local marinas and sea life.

2. Creativity in combining plant materials to emulate natural features is encouraged. Some examples of possible design strategies are using swaying grasses to emulate water movement, using water fountains to emulate the sound and rhythm of waves, and emulating sea colors in plant selection.

3. The use of water fountains, waterfalls, water sculptures, or water features are encouraged.

4. Marine murals and other forms of public art are encouraged throughout the project.
5. Landscaping should include tree plantings around buildings to enhance architectural character and provide shade in the summer and sun in the winter.

6. California-friendly plant species with low watering requirements and characteristics that are compatible with the climate, soils, and setting should compose the majority of the plant palate.

7. The irrigation system shall be designed, constructed, managed, and maintained to achieve a high level of water efficiency.

8. Landscaping in the view corridors should not block these views but rather frame and enhance them.

9. Green walls, water features and selective placement of potted plants and trees can improve and soften the appearance of the buildings while preserving and enhancing desired views.

I. Hardscaping

1. An enhanced permeable paving should be used at the project entry to create rich texture and color while also helping to mitigate urban runoff.

2. Pedestrian spaces should be developed with specialty paving to provide interest and definition and compliment architectural and landscape features.

3. Selection of hardscape material should reflect the coastal marine theme of the project, for example: sand stone, sea glass, pebbles, drift wood, ocean/beach inspired colors or textures, etc.

4. Private streets, driveways, and drive aisles should be multi-purpose and accommodate pedestrian, bike, emergency vehicles, and slow automobile movements. Generous use of planters, large pots and bollards are encouraged with raised curbs only where necessary.

J. Signs

1. The preferred approach to signing is through creating a strong architectural statement that announces development, rather than large distracting signs.

2. Monument signs identifying the development may be permitted at the primary entrance off Bayside Drive and possibly the optional secondary entrance off East Coast Highway, if approved.

3. Signage should be appropriately scaled to the building or surface onto which it is placed, should not obscure important architectural features, and should be readable by both pedestrians and drivers approaching the site.

4. Signage shall be integrated with the design and scale of the architecture.

5. A coordinated approach to signage throughout the development is particularly important due to the multiple storefronts that are envisioned. Signs of similar size, proportion, and materials should be used on each store.

V. Phasing

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

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

- Demolition – 1 month
- Excavation and De-watering – 2 months
- Infrastructure / Foundations – 6 months
- Vertical Construction – 15 months
- Final Landscaping – 3 months
- Bayside Drive Roadway Improvements and Trail – 4 months
- Reconfiguration of Lot Line Adjustment Area – 6 months

VI. Back Bay Landing PCDP Implementation/ Site Development Review

A. Purpose and Intent

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

B. Application

1. Approval of the Site Development Review application by the Planning Commission shall be required prior to the issuance of a grading or building permit for the construction of any new structure at the project. The Planning Commission's decision is final, unless appealed in accordance with the Newport Beach Municipal Code.

2. The following items are exempt from the Site Development Review Process and are subject to the City's applicable permits:

    a) Tenant (interior) improvements to any existing buildings, kiosks, and temporary structures.

    b) Repair and maintenance activities.

    c) Replacement of existing structures found in substantial conformance with previously approved plans and/or permits.

C. Findings

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

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

2. The development shall not be incompatible with the character of the neighboring uses and surrounding sites;

3. The development shall be sited and designed to maximize the aesthetic quality of the project as viewed from surrounding roadways, properties, and waterfront, with special consideration given to providing a variety of building heights, massing, and architectural treatments to provide public views through the site;

4. Site plan and layout of buildings, parking areas, pedestrian and vehicular access ways, landscaping and other site features shall give proper consideration to functional aspects of site development; and

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

D. Submittal Contents

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

1. Existing conditions including adjacent structures and proposed improvements.

2. Comprehensive site and grading plan.
3. Comprehensive elevation drawings, material boards and floor plans for new structures with coordinated and complementary architecture, design, materials and colors. The elevation drawings shall indicate the colors and materials that will be used on the exterior surfaces of the buildings, walls, fences and other visible structures.

4. Permitted and proposed floor area, and residential units.

5. A parking and circulation plan showing pedestrian paths, streets and fire lanes.

6. Landscaping, lighting, signage, utilities, sustainability, and public improvements plans as required by Section IV.

7. Parking management plan (if applicable).

8. Hazards Assessment, and Sea Level Rise and Shoreline Management Plan as required by Section IV.

9. A comprehensive, cohesive and coordinated preliminary landscape plan, illustrating general location of all plant materials, by common and botanical names (with pictures), size of plant materials, and irrigation concept.

10. A comprehensive, cohesive and coordinated lighting plan of exterior and parking structure lighting, including locations, fixture height, fixture product type and technical specifications.

11. Comprehensive text and graphics describing the design philosophy for the architecture, landscape architecture, material and textures, color palette, lighting, and signage.

12. Location and text describing drainage and water quality mitigation measures.

13. Open Space Plans (indoor and/or outdoor) for residential units.

14. A statement that the proposed new structure is consistent with the goals, policies, and actions of the General Plan and Planned Community Development Plan.

15. Any additional background and supporting information, studies, or materials that the Community Development Director deems necessary for a clear representation of the project.

E. Public Hearing

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

F. Expiration and Revocation of Site Development Review Approvals

1. Expiration. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan shall expire within twenty-four (24) months from the effective date of final approval as specified in the Time Limits and Extensions Section of the Newport Beach Municipal Code, unless at the time of approval the Planning Commission has specified a different period of time or an extension is otherwise granted.

2. Violation of Terms. Any Site Development Review approved in accordance with the terms of this Planned Community Development Plan may be modified or revoked if any of the conditions or terms of such Site Development Review are violated or if any law or ordinance is violated in connection therewith.

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

G. Parcel or Tract Maps

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

H. Fees

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

I. Minor Changes by the Director

1. The following minor changes to an approved site plan may be approved by the Director in compliance with Section 20.54.070 (Changes to an approved project) of the Newport Beach Municipal Code:

    a) Minor relocation of any proposed structure.

    b) Reconfiguration of the parking lot, including drive aisles and/or parking spaces, subject to review and approval of the City Traffic Engineer.

    c) Reconfiguration of landscaping.

    d) Any other minor change to the site plan provided it does not increase any structure area, height, number of units, and/or intensity of uses.

2. Any proposed changes that are not deemed minor shall be subject to review and approval by the Planning Commission.

VII. Definitions

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

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

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

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

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

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

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

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

Eating and Drinking Establishments:

> **Bar, Lounge, and Nightclub.** An establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public premise license from the California State Department of Alcoholic Beverage Control (ABC) (i.e., ABC License Type 42 [On Sale

Beer & Wine-Public Premises], ABC License Type 48 [On Sale General-Public Premises], and ABC License Type 61 [On Sale Beer-Public Premises]). Persons under 21 years of age are not allowed to enter and remain on the premises. The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee.

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

1. A permanent menu board is provided from which to select and order food;

2. A chain or franchise restaurant;

3. Customers pay for food before consuming it;

4. A self-service condiment bar and/or drink service is/are provided;

5. Trash receptacles are provided for self-service bussing; and

6. Furnishing plan indicates stationary seating arrangements.

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

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

1. Establishment does not have late hour operations;

2. Customers order food and beverages from individual menus;

3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

4. Customers pay for food and beverages after service and/or consumption.

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

1. Establishment does have late hours;

2. Customers order food and beverages from individual menus;

3. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

4. Customers pay for food and beverages after service and/or consumption.

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

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

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

1. Sales are primarily for off-site consumption;

2. Customers order and pay for food at either a counter or service window;

3. Incidental seating up to 6 seats may be provided for on-site consumption of food or beverages; and

4. Alcoholic beverages are not sold, served, or given away on the premises.

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

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

1. Sales are for off-site consumption;

2. Seating is not provided for on-site consumption of food or beverages; and

3. Alcoholic beverages are not sold, served, or given away on the premises.

Green Building: The practice of increasing the efficiency of buildings and their use of energy, water, and materials, and reducing building impacts on human

health and the environment through better siting, design, construction, operation, maintenance, and removal.

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

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

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

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

> **Boat Rentals and Sales.** An establishment that rents or sells vessels, including storage and incidental maintenance. See "Vessel." Does not include "Marine Services."
>
> **Marine Retail Sales.** An establishment that provides supplies and equipment for commercial fishing, pleasure boating, or related activities. Examples of goods sold include navigational instruments, marine hardware and paints, nautical publications, nautical clothing (e.g., foul-weather gear), and marine engines. Does not include uses in which fuel for boats and ships is the primary good sold (see "Marine Services.").

Marine Services:

> **Boat Storage.** Storage of operative or inoperative boats or ships on land or racks for more than 30 days. Unenclosed boat storage on racks are not permitted.
>
> **Boat Yard.** Construction, maintenance, or repair of boats or ships, including the sale, installation, and servicing of related equipment and parts.
>
> **Entertainment and Excursion Vessels.** A vessel engaged in carrying passengers for hire for the purposes of entertainment or excursions (e.g., fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment, etc.). See "Vessel."
>
> **Marine Service Station.** A retail establishment that sells gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for vessels and other convenience items. No fuel docks shall be allowed. See "Vessel."

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

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

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

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

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

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

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

Personal Services (Land Use):

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

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

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

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

- Day spas
- Healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under "Massage Establishments"
- Tanning salons
- Tattoo services and body piercing studios

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

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

Seawall: See previous definition of "bulkhead" above.

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

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

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

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

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

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

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

Appendix
Back Bay Landing Exhibits

Commission Suggested Modification: Strikeout/delete Exhibit 4: Seawall/Bulkhead Section

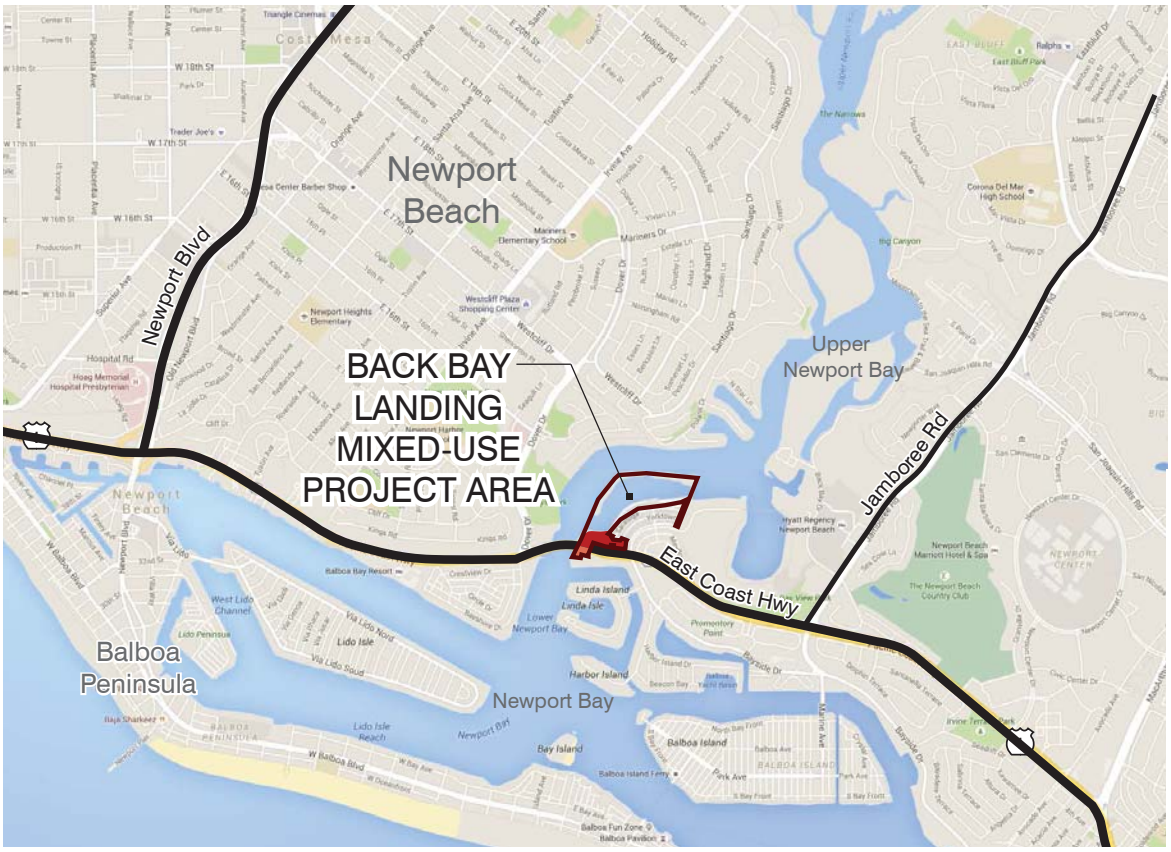


EXHIBIT 1

LOCATION MAP

Back Bay Landing is located immediately north of East Coast Highway in Newport Beach, California. The site is bounded by East Coast Highway and Newport Harbor on the south and west, Bayside Drive to the south, the Newport Back Bay channel to the west and Bayside Village Mobile Home Park to the southeast.

LEGEND

- Project Area (Parcel 3 of PM 93-111)
- Back Bay Landing Mixed-Use Project Area
- PC-9 Boundary

LOCATION MAP

02.02.2016
NTS

BACK BAY LANDING
NEWPORT BEACH, CA

EXHIBIT 2
PLANNING AREAS

This Planned Community includes five distinct planning areas.

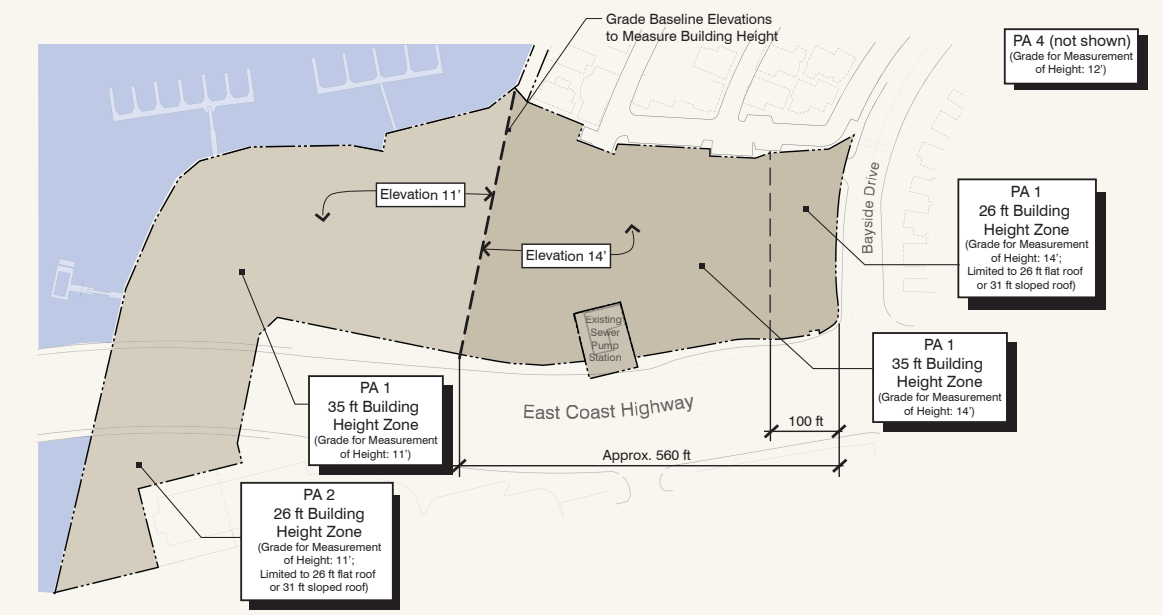


PLANNING AREAS

02.02.2016
NTS

BACK BAY LANDING
NEWPORT BEACH, CA

Exhibit 3
Building Heights



Design Guidelines

East Coast Highway is approximately 22 feet above the Back Bay Landing development site limiting the development's impact on views from East Coast Highway.

There are three finished grade baseline elevations indicated on the exhibit from which the building heights are measured: 11 and 14 feet, or as determined by Sea Level Rise and the Shoreline Management Plan.

Commission Suggested Modification:
Strikeout/Delete this page

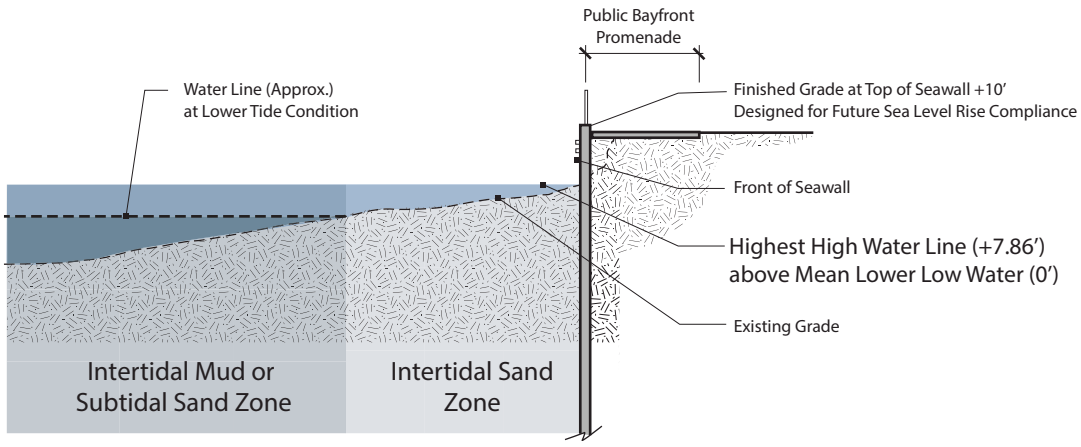


EXHIBIT 4
SEAWALL/BULKHEAD SECTION

BULKHEAD

The project bulkhead may be built to the Highest High Water elevation of 7.86' relative to Mean Lower Low Water (0.0') or 7.48'/NAVD 88 to preserve the natural profile along the shoreline adjacent to the County Tidelands, subject to consistency findings in the Coastal Act and City of Newport Beach Coastal Land Use Policies.

SEAWALL/BULKHEAD SECTION

02.02.2016
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BACK BAY LANDING
NEWPORT BEACH, CA

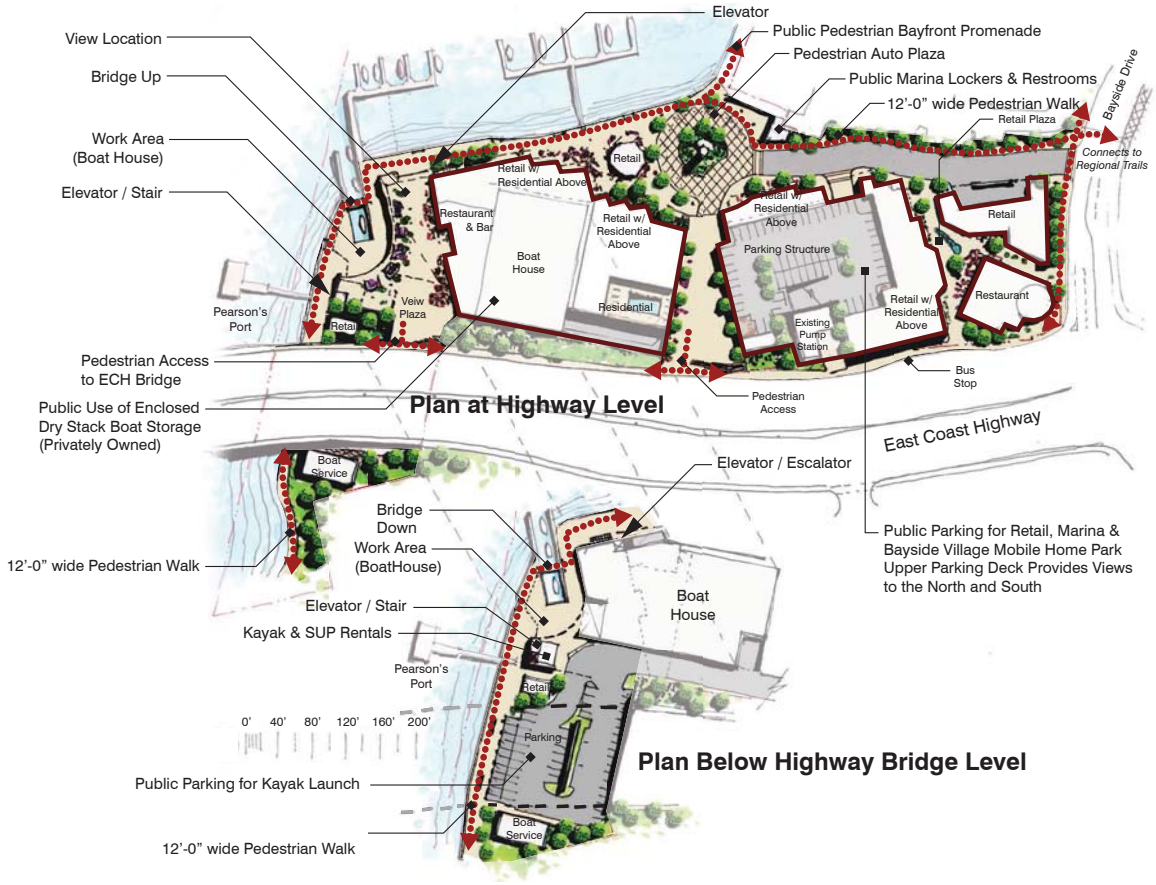


EXHIBIT 5

PUBLIC SPACES

DESIGN GUIDELINES

Back Bay Landing contains extensive outdoor public space, including:

- A linear continuous Public Bayfront Promenade along the bay and connecting to regional trails.
- Class 1, 2, and 3 off-street bikeway and pedestrian trails connecting to East Coast Highway along Bayside Drive.
- A large retail plaza with enhanced paving street furniture, water features and shade trees.
- A Bayside Plaza with enhanced paving, seating and shade trees.
- A kayak and SUP rental and launch area with storage lockers and water access.
- Public Restrooms accessed from the Public Bayfront Promenade.

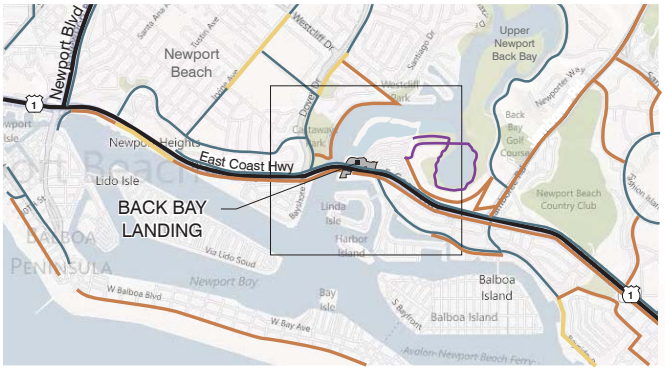
Additional public spaces are provided within retail, restaurant and the enclosed dry stack boat storage buildings.

EXHIBIT 6

COASTAL ACCESS & REGIONAL TRAIL CONNECTIONS

Back Bay Landing provides coastal access and a critical link between existing regional trails.

1. Regional Trail Connections
2. Proposed Coastal Access
3. Current Lack of Trail Connection
4. Critical Trail Connections



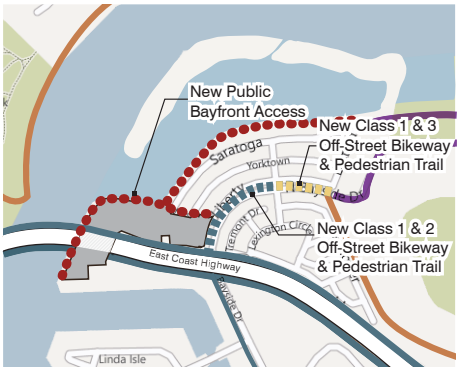
1. Regional Trail Connections



3. Current Lack of Trail Connection



2. Proposed Coastal Access

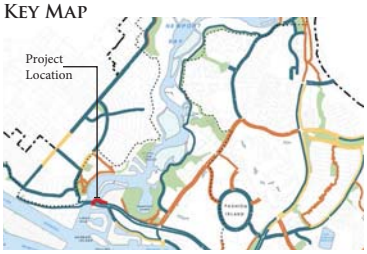


4. Critical Trail Connections

LEGEND

- Existing Class 1 Trail
- Existing Class 2 Trail
- Existing Class 3 Trail
- Existing Newport Dunes Recreational Trail
- Lateral Access
- Vertical Access
- Proposed Class 1 & 3 Trail
- Proposed Class 1 & 2 Trail
- Proposed Public Bayfront Promenade

KEY MAP



COASTAL ACCESS & REGIONAL TRAIL CONNECTIONS

02.02.2016
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BACK BAY LANDING
NEWPORT BEACH, CA

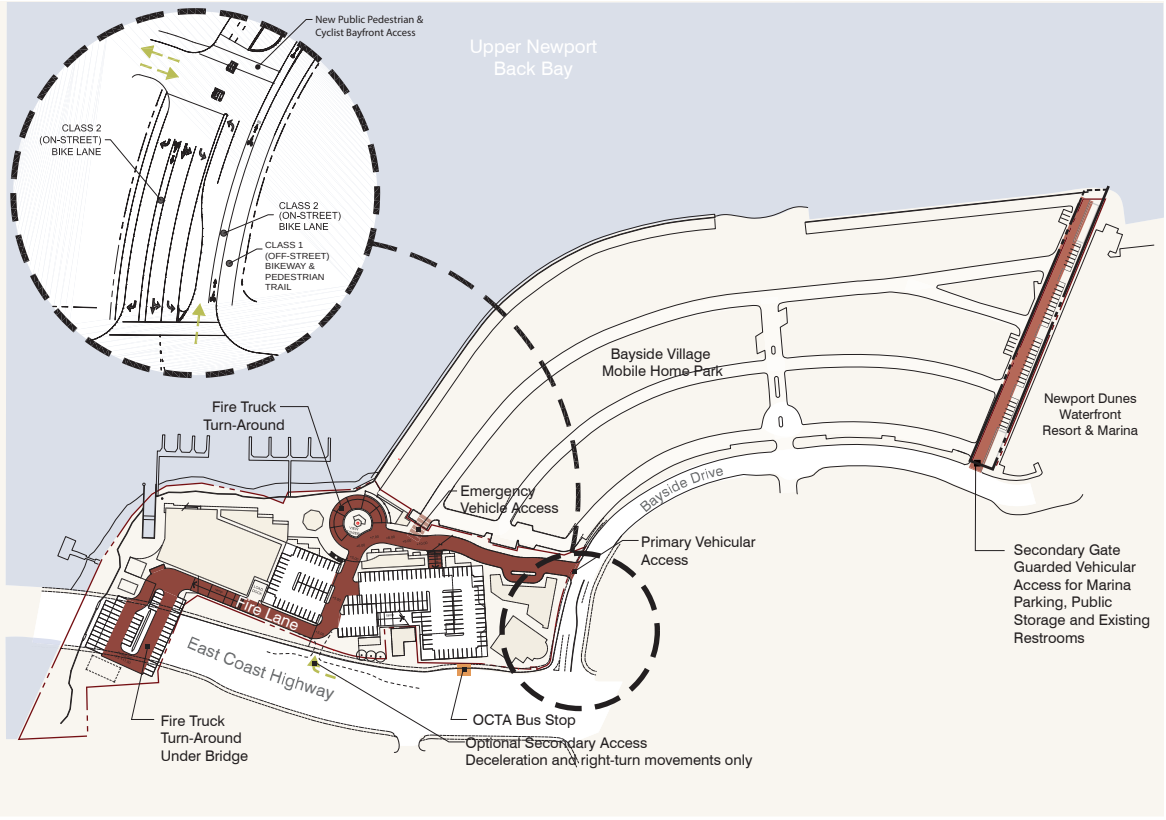


Exhibit 7
Vehicular Circulation

Design Guidelines

Primary vehicular access to the site will be from Bayside Drive approximately 200 feet north of the East Coast Highway intersection. This project driveway would service both inbound and outbound movements, improve the existing driveway connection further into the site, and will be relocated approximately 45 feet north of its current location.

Intersection improvements will maintain the existing left-turn lane, add a shared left-turn through lane, and add an exclusive right turn lane on the southbound approach of the signalized intersection of Bayside Drive with East Coast Highway. Project access enhancements will include an exclusive left-turn lane on the northbound approach of the Bayside Drive and project driveway intersection.

Primary circulation includes two fire truck turnarounds. An Emergency Vehicle Access from Bayside Village Mobile Home Park provides an additional layer of safety.

Secondary marina access for marina parking and public storage is located directly off Bayside Drive.

An optional secondary access located approximately 430 feet west of the Bayside Drive intersection with East Coast Highway, would add an exclusive right-turn lane along westbound East Coast Highway. This connection would allow for inbound right-turn movements only. Outbound movements would be prohibited.

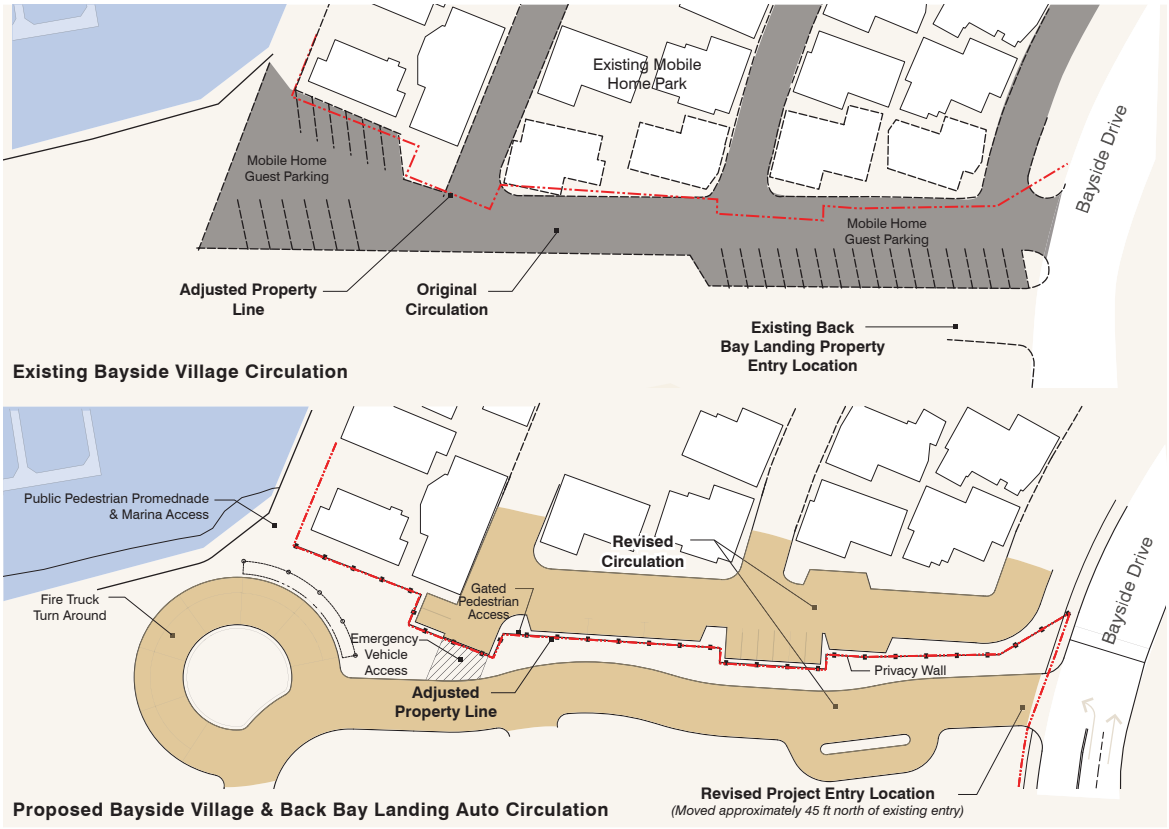


EXHIBIT 8

REVISED VEHICULAR CIRCULATION & PARKING

DESIGN GUIDELINES

New & Improved Project Access
Revised vehicular circulation will provide a new and improved access to the proposed project. The primary entry is located on Bayside Drive approximately 200 feet north of the East Coast Highway intersection. The entry is proposed to be relocated approximately 45 feet north of its existing location.

The reconfiguration will remove four (4) mobile homes and relocate thirty one (31) mobile home guest parking spaces and two trash bins to allow for the expanded project entry.

New landscaping with decorative walls and pedestrian gates will separate the mixed use project from the mobile homes. The mobile home vehicular circulation will be reconfigured and will include twelve (12) mobile home guest parking spaces. An additional nineteen (19) mobile home guest parking spaces will be relocated in Planning Area 4. There will be no net loss of guest parking to the mobile home community.

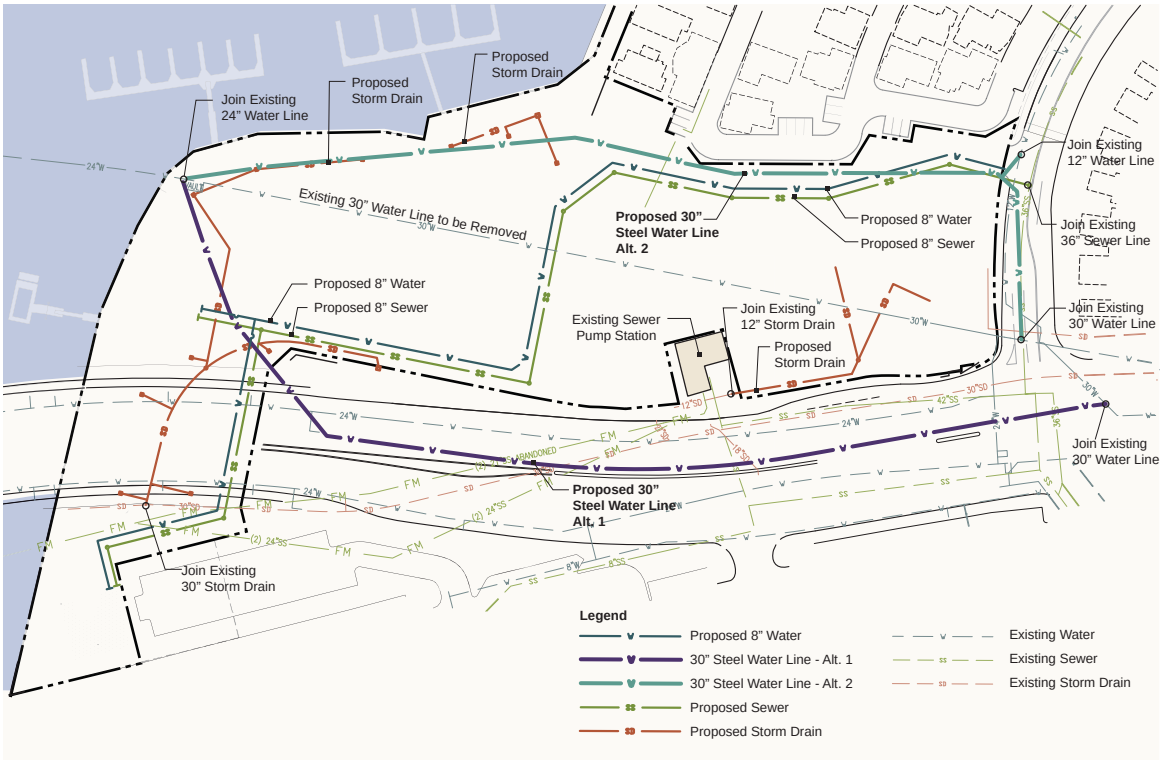


EXHIBIT 9

UTILITIES PLAN

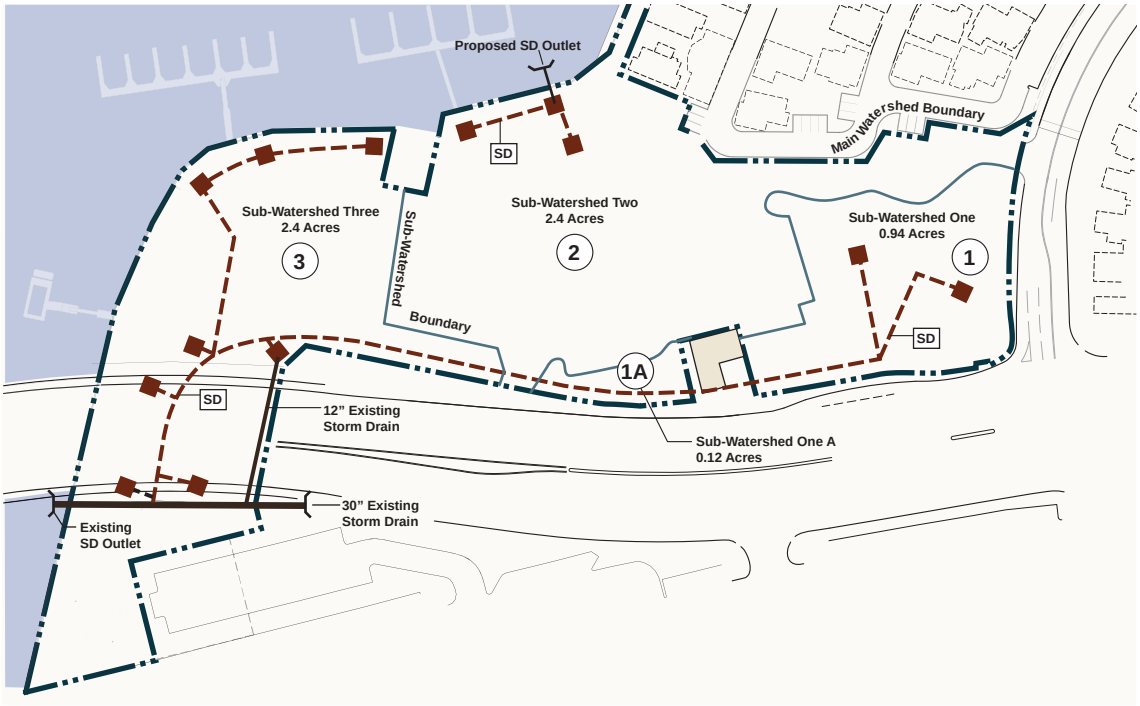
Sewer
A new 8" sewer line is proposed to serve the Back Bay Landing project. It will connect into the existing 36" sewer line within Bayside Drive north of the proposed project. Based on the 2006 Strategic Plan Update for OCSD, capacity exists within the existing 36" line to accommodate the proposed project.

Water
The existing 30" water transmission line traversing the project site will be abandoned to minimize conflicts with the proposed project and allow easy access and maintenance to the proposed lines. Two alternatives are currently proposed to replace the capacity of the line and continue to provide reliable water service in case of an emergency to the western region of Newport Beach.

Additionally, a new 8" water line will serve the proposed project and tie into the existing 12" water line in Bayside Drive. The increased demand on the existing line will be consistent with the proposed sewer generation rates. Water capacity is not anticipated to be an issue based on the redundant water transmission lines that surround the project site.

EXHIBIT 10

DRAINAGE PLAN



The proposed drainage plan consists of four sub-watersheds. Stormwater will be collected at various inlets throughout the project site which will connect into the existing 30-inch storm drain that discharges south of the East Coast Highway Bridge or drain directly out an existing or new outlet through the bulkhead.

Exhibit 11
Architectural Theme

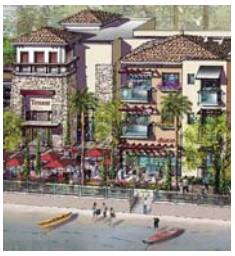
Design Guidelines

The development shall be designed with a coastal architectural theme. The intent is not to select a historically specific or rigid architectural style for the project, but to use it as the design guidelines to help shape the character of the area and reflect its setting within the City.

Back Bay Landing will be designed and constructed to evoke the experience of a seaside village, with compatible architecture and community character to existing waterfront portions of Newport's Mariner's Mile, Lido and Newport Peninsulas.



East Coast Highway and Bayside Drive



Coastal Access with Ground Floor Commercial and Residences Above



Public Bayfront Promenade



Visitor Serving Commercial



View Plaza Seating



EXHIBIT 12

CONCEPTUAL SITE PLAN

DESIGN GUIDELINES

Back Bay Landing is an integrated, mixed-use waterfront village with visitor- serving retail and marine service commercial facilities, as well as a limited amount of attached residential uses.

It is designed to evoke a seaside village and has a strong focus on the pedestrian experience.

CONCEPTUAL SITE PLAN

02.02.2016
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BACK BAY LANDING
NEWPORT BEACH, CA

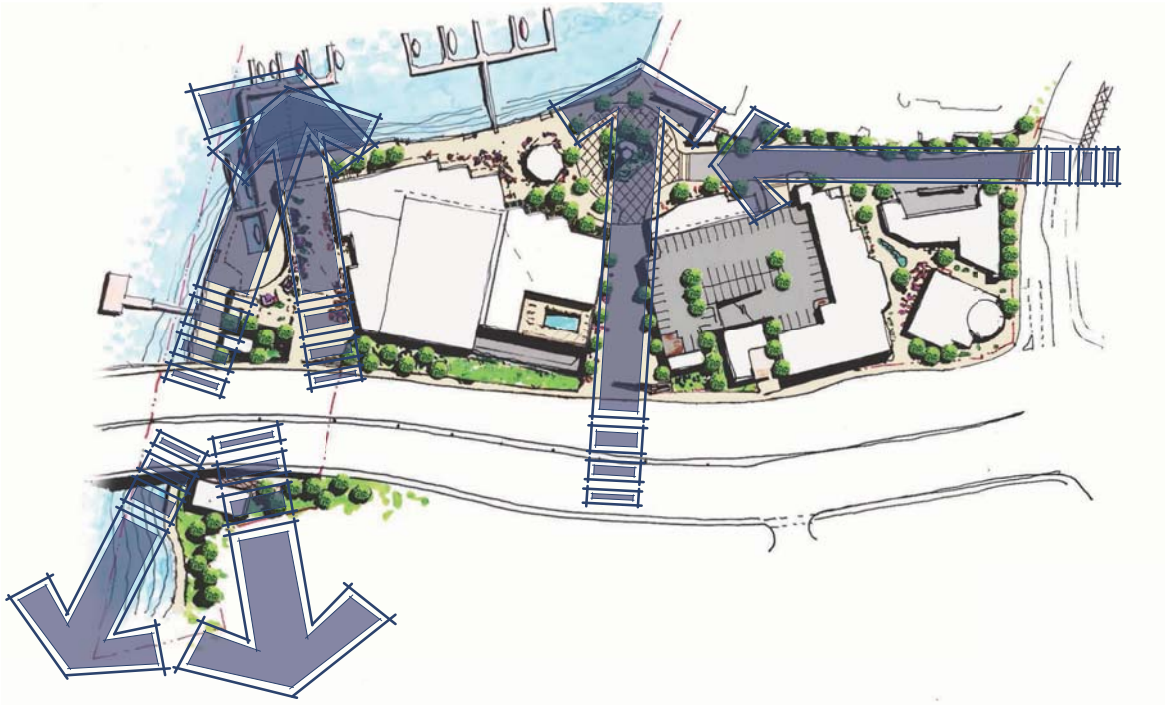


EXHIBIT 13

EAST COAST HIGHWAY VIEW CORRIDORS

DESIGN GUIDELINES

Varied roof heights and undulating buildings add variety to the street scene. Along East Coast Highway and Bayside Drive six scenic view corridors are preserved.

EAST COAST HIGHWAY VIEW CORRIDORS

02.02.2016
NTS

BACK BAY LANDING
NEWPORT BEACH, CA

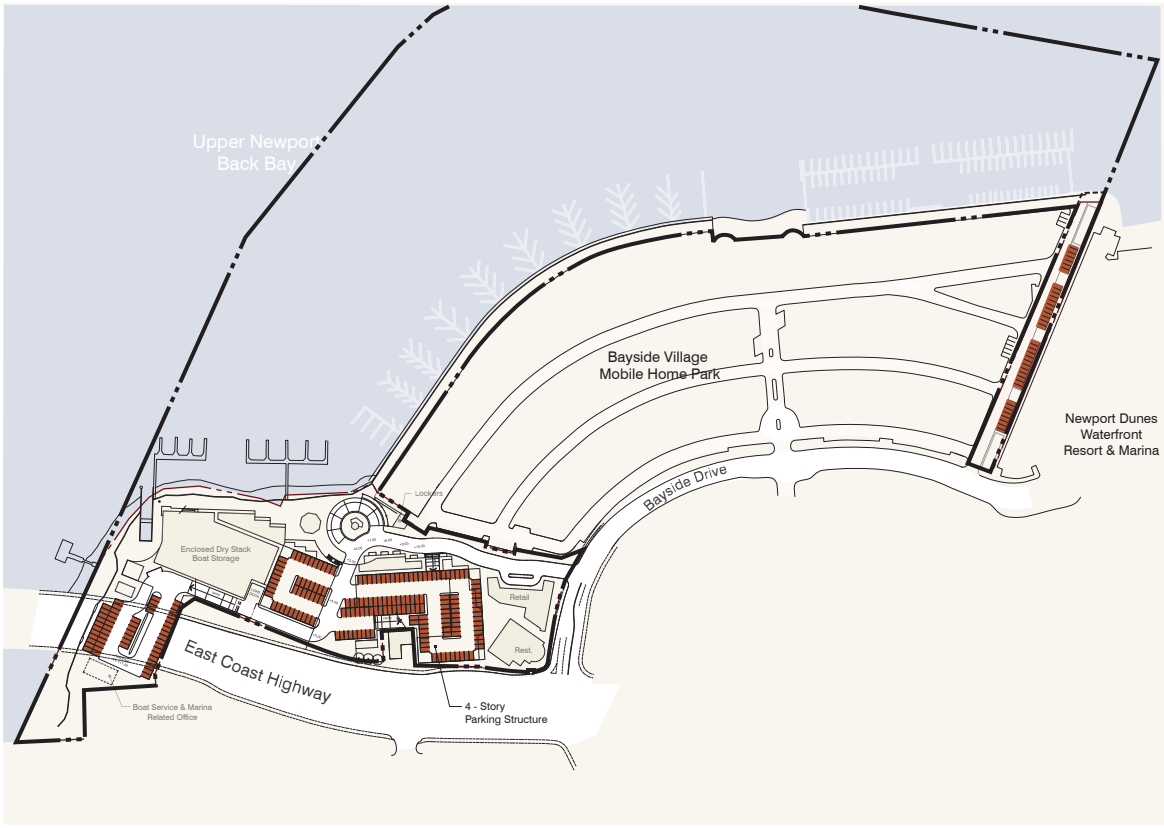


EXHIBIT 14

PARKING PLAN

DESIGN GUIDELINES

Back Bay Landing is a mixed-use waterfront development providing parking above the City's requirements.

LEGEND

Parking Areas

PARKING PLAN

02.02.2016
NTS

BACK BAY LANDING
NEWPORT BEACH, CA

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification
Double Underlined Bold Text = Language modifications made at 9/8/16 Commission meeting
~~**Double Strike-Out Bold Text**~~ = Language deleted as part of modifications made at 9/8/16 Commission meeting

Chapter 21.28 –Overlay Coastal Zoning Districts (MHP, PM, B, ~~and~~ C, and H)

Sections:

21.28.010 Purposes of Overlay Coastal Zoning Districts
21.28.020 Mobile Home Park (MHP) Overlay District
21.28.030 Parking Management (PM) Overlay District
21.28.040 Bluff (B) Overlay District
21.28.050 Canyon (C) Overlay District
21.28.060 Height (H) Overlay District

21.28.010 – Purposes of Overlay Coastal Zoning Districts

The purposes of the individual overlay coastal zoning districts and the manner in which they are applied are outlined below. An overlay district may be initiated as a Coastal Zoning Map amendment in compliance with Chapter ~~21.66 (Amendments)~~ 21.14 (Maps). All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this chapter, if any. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this chapter the most restrictive standard shall prevail.

A. **MHP (Mobile Home Park) Overlay Coastal Zoning District.** The MHP Overlay Coastal Zoning District is intended to establish a mobile home district on parcels of land developed with mobile home parks. The regulations of this district are designed to maintain and protect mobile home parks in a stable environment with a desirable residential character.

B. **PM (Parking Management) Overlay Zoning District.** The PM Overlay Zoning District is intended to provide for areas where parking management plans are appropriate to ensure adequate parking.

C. **Bluff (B) Overlay Coastal Zoning District.** The B Overlay District is intended to establish special development standards for areas of the City where projects are proposed on identified bluff areas. The specific areas are identified in Part 8 of this Implementation Plan (Maps).

D. **Canyon (C) Overlay Coastal Zoning District.** The C Overlay District is intended to establish development setbacks based on the predominant line of existing development for areas that contain a segment of the canyon edge of Buck Gully or Morning Canyon. The specific areas are identified in Part 8 of this Implementation Plan (Maps).

E. **Height (H) Overlay District.** The H Overlay District is intended to establish standards for review of increased building height in conjunction with the provision of enhanced project design features and amenities.

21.28.020 Mobile Home Park (MHP) Overlay Coastal Zoning District.

A. **Uses Allowed.** Uses allowed in the MHP Overlay Coastal Zoning District include only those uses listed below. When an MHP Overlay Coastal Zoning District is applied to an area, all uses previously allowed in the underlying Coastal Zoning district are no longer allowed.

1. **Mobile Home Parks.** Mobile home parks as regulated by the State of California pursuant to the Mobile Home Parks Act (Health and Safety Code Section 18300) and the California Coastal Act (Public Resources Code Division 20).

2. **Accessory Structures and Uses.** Accessory structures and uses incidental to the operation of mobile home parks (e.g., recreation facilities and/or community centers of a noncommercial nature, either public or private, storage facilities for the use of the mobile home park residents, and any other structures or uses that are incidental to the operation of a mobile home park).

B. **Land Use and Development Standards.** The standards are those established by the base zoning district (e.g., RM). The MHP Overlay does not modify land use or property development regulations.

~~B~~C. **Removal of the Mobile Home Park Overlay District**. Removal of the MHP designation shall be initiated as a Coastal Zoning Map amendment through a Local Coastal Program amendment. The Council shall not approve a Coastal Zoning Map amendment that would remove the MHP designation from a property, unless all of the following findings have first been made:

1. The proposed Coastal Zoning is consistent with the Coastal Land Use Plan, and in the event the proposed Coastal Zoning is Planned Community, the PC Development Plan has been submitted and is consistent with the Coastal Land Use Plan;

2. The property which is the subject of the Coastal Zoning Map amendment would be more appropriately developed in compliance with the uses allowed by the underlying base coastal zoning, or proposed Coastal Zoning, and if the underlying base coastal zoning or proposed Coastal Zoning is Planned Community, that a PC Development Plan has been submitted and the property would be more appropriately developed with the uses specified in that development plan; and

3. A mobile home park phase out plan and report on the impact of conversion, closure, or cessation of the use on the displaced residents of the mobile home park has been prepared, reviewed, and found to be acceptable and consistent with the provisions of the California Government Code.

    a. A phase out plan shall not be found to be acceptable unless it includes all of the following:

i. A time schedule and method by which existing mobile homes, cabanas, ramadas, and other substantial improvements and tenants are to be relocated or appropriately compensated;

ii. Methods of mitigating the housing impacts on tenants having low and moderate incomes, elderly tenants, and tenants who are handicapped; and

iii. The programs or other means that are to be implemented properly address the housing impacts on those described in subsection (B)(3)(a)(ii) of this section are mitigated.

b. For purposes of this finding, "low and moderate incomes" shall be defined in compliance with the provisions of the City's Housing Element.

21.28.030 – Parking Management (PM) Overlay District

A. **Parking Management District Plan Required.** Before approving ~~an~~ Coastal Zoning Map amendment reclassifying land to a PM Overlay District, the Commission and Council shall approve a parking management district plan.

B. **Establishment of Parking Management Program(s).** The parking management district plan shall identify existing and planned parking facilities and establish parking management programs necessary to adequately serve the parking needs of the area and ~~provide for~~ address the following issues:

1. The provision of adequate, convenient parking for residents, guests, business patrons, and visitors of the Coastal Zone;

2. Optimizing the use of existing parking spaces;

3. Providing for existing and future land uses;

4. Reducing traffic congestion;

5. Limiting adverse parking impacts on user groups;

6. Providing improved parking information and signage;

7. Generating reasonable revenues to cover City costs;

8. Accommodating public transit and alternative modes of transportation.

C. **Exemptions.** The parking management district plan shall also include a formula or procedure establishing the extent to which commercial, residential, and mixed-use properties shall be exempted from the requirements of Chapter 21.40 (Off-Street Parking).

~~D. **Parking Management Overlay Districts Established.** The parking management districts identified in this section and depicted in the referenced maps exhibits adopted in Part 8 of this Implementation Plan.~~

1. Balboa Village Parking Management Overlay District applies to all property located within Balboa Village between the Pacific Ocean, A Street, Newport Bay, and Adams Street and depicted in Parking Management Overlay Map PM-1.

   a. **Purpose.** The purpose of the Balboa Village Parking Management Overlay District is to identify existing and planned parking facilities and establish parking programs to adequately serve the parking needs for Balboa Village. Additionally, the District establishes modified parking requirements for properties that differ from the basic requirements of Chapter 21.40 (Off-Street Parking).

   b. **Existing Parking Facilities.** The City maintains six public parking lots within or near the District: 1) A Street lot, 2) B Street lot, 3) Washington Street lot, 4) Palm Street lot, 5) Balboa Metered lot, and 6) Balboa Pier lot. In addition, the City provides and maintains a small number of on-street parking spaces along Balboa Boulevard, Palm Street, and Bay Avenue. The City intends to maintain public parking facilities; however, should the need arise, the City may modify, add, or remove parking spaces to ensure safe and efficient operations and meet parking demand.

   c. **Planned Parking Facilities.** Due to the high cost of land acquisition and construction and the underutilization of existing parking, additional off-street parking facilities are not necessary to meet the demand of existing uses. Parking demand shall be monitored and evaluated by the City to determine whether additional District parking is necessary, economical, appropriate, and desirable. The City may acquire or lease parking facilities to make them available to the public.

   d. **Required Off-Street Parking**

      i. **Non-residential Uses.** No off-street parking shall be required for any new non-residential use or intensification of uses except the following uses as defined by the Implementation Plan: Assembly/Meeting Facilities, Commercial Recreation and Entertainment, Cultural Institutions, all Marine Services Uses, Schools, and Visitor Accommodations. Uses that require off-street parking shall provide said spaces in accordance with Chapters 21.40 (Off-Street Parking) and 21.38 (Nonconforming Uses and Structures).

      ii. **Residential Uses.** Residential uses shall provide parking in accordance with Chapters 21.40 (Off-Street Parking) and 21.38 (Nonconforming Uses and Structures).

      iii. Existing off-street parking spaces shall be preserved unless the elimination of spaces is authorized by the approval of a coastal development permit application by the Zoning Administrator.

      iv. **Shared Parking for Non-residential Uses.** Notwithstanding the Implementation Plan requirement that off-street parking be reserved for the use it serves, the shared use of parking is allowed

and encouraged. Shared parking shall be subject to the following requirements:

(A) **Required Off-street Parking.** When required, parking for non-residential uses may be satisfied by leasing nearby parking spaces at off-site locations within 1,250 feet of the parcel it serves. Development on multiple parcels with reciprocal access agreements is considered one site for parking purposes. If the spaces are required or otherwise leased to other uses, the hours of operation shall not significantly overlap. The distance between the parking facility and the use it serves shall be measured along public walkways from the closest portion of the parking facility to the main entrance of the use. The leasing of off-site parking to satisfy required parking shall be maintained in perpetuity when the use requires it and may only be discontinued if the use is discontinued.

(B) **Excess Parking.** Parking that is not necessary to satisfy off-street parking requirements may be leased to other uses or made available to the general public.

(C) **Parking within Mixed-use Buildings.** Parking for different uses within a new, mixed-use building may be shared subject to the review and approval of a coastal development permit application.

(D) The reduction of required parking associated with a shared parking arrangement shall be subject to the review and approval of the Director when in compliance with the following conditions:

(1) Shared parking spaces are within 1,250 feet as described in Section 21.28.030.D.5.d.1;

(2) There is no significant overlap in the hours of operation or peak parking demand of the uses sharing the parking;

(3) The use of the shared parking facility will not create traffic hazards or impacts to surrounding uses;

(4) The property owners involved in the shared parking facilities provide a binding agreement or other legal instrument assuring the joint use of the parking facilities subject to the satisfaction of the Director;

(5) The Director may require the preparation and implementation of a parking management program to address potential parking conflicts.

~~(E) Section 21.40.110.A.2 (Joint Use of Parking Facilities) does not apply within the Balboa Village Parking Management Overlay District.~~

~~v. **Private Parking Facilities Available to the General Public.** Non-residential, off-street parking facilities are encouraged to be made available to the general public, even if the parking facility is required for existing developments. Subject to City Council review and approval, the City may enter into an agreement with the property owner for the use and/or management of the parking facility. Allowing general public access to private off-street parking facilities shall not affect the property's conformance with its required off-street parking. The agreement should at a minimum address hours of availability for use by the general public, signage, maintenance, duration of agreement, and liability.~~

~~e. **Suspension of In-lieu Parking.** Uses within the Balboa Village Parking Management Overlay District shall not be eligible for in-lieu parking pursuant to Section 21.40.130 (In-Lieu Parking Fee). The requirement that existing uses within the Balboa Village Parking Management Overlay District participate in the in-lieu parking permit program shall be discontinued as of the effective date of the District.~~

~~f. **Voluntary Employee Parking.** The City will develop and implement a voluntary Balboa Village Employee Permit Program that will include reduced fees and designated parking locations for employee parking during specified hours.~~

E. **Local Coastal Program Amendment Required.** The implementation of any future parking management district plans as a PM Overlay District shall require an amendment to the Local Coastal Program approved by the Coastal Commission.

21.28.040 – Bluff (B) Overlay District

A. **Applicability.** This section applies to lots located in the Bluff (B) Overlay District as indicated on the Coastal Zoning Map. All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this section. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this section the most restrictive standard shall prevail.

B. **Uses Allowed.** Land uses allowed in the Bluff (B) Overlay District are all those uses allowed in the underlying coastal zoning district.

C. **Development Area Defined.** For the purpose of this section the development area of a lot is an area delineated for the purpose of regulating the placement and location of structures. Each lot within the B Overlay District shall be divided into two or more development areas. Development areas are delineated on the Development Area Maps attached to the ordinance codified in this Implementation Plan and are consistent with the development areas listed in subsection (D) of this section, unless modified pursuant to subsection (O) of this section. The setbacks provided in Tables 21.18-2 and 21.18-3 in Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards)

are not used to determine development areas, but are only used to determine the maximum floor area limit for the lot, if applicable.

1. **Development Area A — Principal and Accessory Structures.** Area A allows for the development ~~**including grading**~~ and use of principal and accessory structures. Accessory structures allowed in Areas B and C are allowed in Area A.

2. **Development Area B — Accessory Structures.** Area B allows for the development ~~**including surficial grading**~~ and use of accessory structures listed below. Principal structures are not allowed.

    a. Allowed Accessory Structures. The following accessory structures are allowed in Area B:

        i. Accessory structures allowed in Area C are allowed within Area B.

        ii. Barbecues.

        iii. Decks.

        iv. Detached or attached patio covers (solid or lattice).

        v. Fences, walls, and retaining walls in compliance with Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).

        vi. Fireplaces and fire pits.

        vii. Gazebos.

        viii. Outdoor play equipment.

        ix. Patios.

        x. Platforms.

        xi. Porches.

        xii. Above ground ~~S~~spas and hot tubs.

        xiii. Swimming pools (25-foot setback required on bluffs subject to marine erosion).

        xiv. Terraces.

        xv. Similar structures.

        xvi. Benches.

        xvii. Guardrails and handrails required by building code.

xviii. Property line fences and walls, not including retaining walls.

b. Development standards for accessory structures. The following development standards apply to Area B:

i. Covered accessory structures (e.g., trellis, gazebos, patio covers) shall not exceed twelve (12) feet in height from existing grade or finished grade or exceed four hundred (400) square feet in cumulative total area.

ii. Retaining walls shall comply with Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).

iii. Surficial grading for at-grade structures only; no caissons or accessory structures with deepened foundations allowed in Area B, **other than the exemptions made for in subsection D of third section listed below.**

3. **Development Area C—Limited Accessory Structures.** Area C allows for the development and use of limited accessory structures. The following accessory structures are allowed in Area C:

a. Allowed Limited Accessory Structures. Area C allows for the development and use of limited accessory structures.

i. Lots Not Subject to Marine Erosion. For lots located on bluffs not subject to marine erosion, the following accessory structures are allowed in Area C:

1) Benches.

2) Drainage devices.

3) Guardrails and handrails required by building code.

4) Landscaping/irrigation systems.

5) On-grade trails (allowed only in Irvine Terrace (Map B-2 and B-3)

6) On-grade stairways (allowed only in Irvine Terrace (Map B-2 and B-3)

7) Property line fences and walls, not including retaining walls.

8) Underground utilities, only if not feasible to be placed elsewhere on the site.

ii. Lots Subject to Marine Erosion. For lots located on bluffs subject to marine erosion, the following accessory structure are allowed in Area C, unless prohibited in subsection (D) of this section;

~~a. Benches.~~

~~b~~a.**1)** Drainage devices, only if not feasible to be placed elsewhere on the site.

c.**2)** ~~Guardrails and handrails required by building code.~~

~~d~~b.**3)** Landscaping/temporary irrigation systems.

~~e~~c.**4)** On-grade public trails.

~~f~~d.**5)** On-grade public stairways.

~~g. Property line fences and walls, not including retaining walls.~~

~~h~~e.**6)** Underground utilities, only if not feasible to be placed elsewhere on the site.

~~i. Similar structures.~~

~~f~~.**7)** Shoreline protective devices in compliance with Section 21.30.030 (C) (3).

D. **Location of Development Areas.** The development areas are listed below and depicted in the referenced map exhibits adopted in Part 8 of this Implementation Plan. The placement of structures and grading is limited by development areas as defined in this section and in subsection (C) of this section. The development areas for each parcel are polygons established by the property lines and the following development lines (See Map Exhibits B-2 through B-~~8~~**9**, attached to the ordinance codified in this Implementation Plan). Development areas may be modified pursuant to subsection (O) of this section. All contour lines refer to NAVD88 contours.

2. **Map B-2—Irvine Terrace (Not Subject to Marine Erosion).**

a. Dolphin Terrace.

i. Development Area A. Between the front property line adjacent to Dolphin Terrace and a ten (10) foot setback from the top of the existing bluff.

ii. Development Area B. Between the ten (10) foot setback from the top of the existing bluff and a line established at an elevation that is thirteen (13) feet below the average elevation of the top of the curb adjacent to the lot.

iii. Development Area C. All portions of the lot not located in Areas A and B.

iv. **Development Area Exemption. The basement of a principal structure in Area A is allowed to daylight into Area B. On-grade trails and stairways are allowed in Development Area C.**

3. **Map B-3—Irvine Terrace (Not Subject to Marine Erosion).**

a. Bayadere Terrace (1607).

i. Development Area A. The extent of the existing principal structure.

ii. Development Area B. Between the extent of the existing development and a development line established at an elevation that is thirteen (13) feet below the average elevation of the top of the curb adjacent to the lot.

iii. Development Area C. All portions of the lot not located in Areas A and B.

iv. Development Area Exemptions. The basement of a principal structure in Area A is allowed to daylight into Area B. On-grade trails and stairways are allowed in Development Area C.

b. Bayadere Terrace (1615-1638) **(Not Subject to Marine Erosion).**

i. Development Area A. Between the front property line adjacent to Bayadere Terrace and the forty-eight (48) foot contour line*.

ii. Development Area B. Between the forty-eight (48) foot contour line* and a development line established at an elevation that is thirteen (13) feet below the average elevation of the top of the curb adjacent to the lot.

iii. Development Area C. All portions of the lot not located in Areas A and B.

iv. Development Area Exemptions. The basement of a principal structure in Area A is allowed to daylight into Area B.

On-grade trails and stairways are allowed in Development Area C.

c. Bayadere Terrace (1701-2201) **(Not Subject to Marine Erosion).**

i. Development Area A. Between the front property line adjacent to Bayadere Terrace and the fifty (50) foot contour line*.

ii. Development Area B. Between the fifty (50) foot contour line and a development line established at an elevation that is thirteen (13) feet below the average elevation of the top of the curb adjacent to the lot.

iii. Development Area C. All portions of the lot not located in Areas A and B.

iv. Development Area Exemptions. The basement of a principal structure in Area A is allowed to daylight into Area B. On-grade trails and stairways are allowed in Development Area C.

4. **Map B-4—Avocado Avenue/Pacific Drive (Not Subject to Marine Erosion).**

a. Avocado Avenue.

i. Development Area A. Above the sixty-eight (68) foot contour line for 415 Avocado Avenue, above the fifty (50) foot contour line for 411 Avocado Avenue and the prolongation of such contour line along the shortest segment to the thirty-five (35) foot contour line[2] for 401 Avocado Avenue.

ii. Development Area C. Below the sixty-eight (68) foot contour line at 415 Avocado Avenue, fifty (50) foot contour line at 411 Avocado Avenue, and below the thirty-five (35) foot contour line* along 401 Avocado Avenue.

b. Pacific Drive (2235-2329).

i. Development Area A. Between the front property line adjacent to Pacific Drive and the fifty-three (53) foot contour line.*

ii. Development Area C. All portions of the lot not located in Area A.

5. **Map B-5—Carnation Avenue (Only 201-203 Subject to Marine Erosion).**

a. Carnation Avenue (201-233).

i. Development Area A. Between the front property line adjacent to Carnation Avenue and the 50.7-foot contour line.*

ii. Development Area C. All portions of the lot not located in Area A.

b. Carnation Avenue (239-317).

i. Development Area A. As indicated by the specified distance (in feet) from the front property line adjacent to Carnation Avenue on the development area map.

ii. Development Area B. Between the Area A development line and the seventy (70) foot contour line.*

iii. Development Area C. All portions of the lot not located in Area A or B.

iv. Additional Development Standards. If Area A overlaps Area B, the area of overlap shall be regulated as Area A.

6. **Map B-6—Ocean Boulevard/Breakers Drive (Subject to Marine Erosion)..**

a. Breakers Drive (3100-3200).

i. Development Area A. Between the fifty-two (52) foot contour line* and the property line adjacent to Breakers Drive.

ii. Development Area B. Between the forty-eight (48) foot contour line* and the thirty-three (33) foot contour line.*

iii. Development Area C. All portions of the lot not located in Area A or B.

iv. Additional Development Standards. Structure height may not exceed the fifty-two (52) foot contour line.* No fences or walls allowed in Area C.

b. Ocean Boulevard (3207-3309).

i. Development Area A. Between the forty-eight (48) foot contour line* and the property line adjacent to Ocean Boulevard and between the thirty-three (33) foot contour line* and the property line adjacent to Breakers Drive.

ii. Development Area C. Between the thirty-three (33) foot and forty-eight (48) foot contour lines.*

iii. Additional Development Standards. Covered walkways connecting a conforming garage and principal structure are allowed in Area C.

c. Ocean Boulevard (3317-3431).

i. Development Area A. Between the forty-eight (48) foot contour line* and the property line adjacent to Ocean Boulevard.

ii. Development Area B. Between the forty-eight (48) foot contour line and the thirty-eight (38) foot contour line.*

iii. Development Area C. All portions of the lot not located in Area A or B.

iv. Additional Development Standards. No fences or walls in Area C.

d. Ocean Boulevard (3601-3729).

i. Development Area A. Between the property line adjacent to Ocean Boulevard and the seaward extent of the existing development area.

ii. Development Area C. All portions of the lot not located in Area A.

iii. Additional Development Standards. New development shall not extend further onto the bluff face beyond existing development.

7. **Map B-7—Shorecliffs (Subject to Marine Erosion).**

a. Shorecliff Road.

i. Development Area A. As indicated by the specified distance (in feet) from the front property line on the development area map. Setbacks shall be not less than twenty-five (25) feet from the bluff edge for principal structures and major accessory structures such as guesthouses and swimming pools, and not less than ten (10) feet from the bluff edge for accessory structures.

ii. Development Area B. Between the seaward boundary of Area A and a line established by a ten (10) foot setback from the bluff edge (not all lots have an Area B).

iii. Development Area C. All portions of the lot not located in Area A or B.

iv. Additional Development Standards. If Area A overlaps Area B, the area of overlap shall be regulated as Area A. No fences or walls shall be allowed in Area C.

8. **Map B-8—Cameo Shores (Subject to Marine Erosion).**

a. Brighton Road.

i. Development Area A. As indicated by the specified distance (in

feet) from the front property line on the development area map. Setbacks shall be not less than twenty-five (25) feet from the bluff edge for principal structures and major accessory structures such as guesthouses and swimming pools, and not less than ten (10) feet from the bluff edge for accessory structures.

ii. Development Area B. Between the seaward boundary of Area A and a line established by a ten (10) foot setback from the bluff edge (not all lots may have an Area B).

iii. Development Area C. All portions of the lot not located in Area A or B.

iv. Additional Development Standards. If Area A overlaps Area B, the area of overlap shall be regulated as Area A. No fences or walls shall be allowed in Area C.

9. **Map B-9—Upper Newport Bay Bluffs**.

a. **1310-1542 and 1626-2018 (even numbers only)** Galaxy Drive and **930 and 1001-1033 (odd numbers only)** Mariner's Drive **(Subject to Marine Erosion).**

i. Development Area A. ~~**As indicated by the specified distance (in feet) from the front property line on the development area map, but**~~ **Between the front property line and (1) a line not less than 25 feet from the bluff edge or (2) the rear setback line, whichever is more restrictive,** for principal structures and major accessory structures such as guesthouses and **swimming** pools ~~**and not less than 10 feet from the bluff edge for accessory structures**~~.

ii. Development Area B. Between the seaward boundary of Area A and a line ~~**established by a**~~ **not less than** ten (10) ~~**foot setback**~~ **feet** from the bluff edge (not all lots may have an Area B).

iii. Development Area C. **All portions of the lot not located in Area A or Area B (not all lots may have an Area C).** No development allowed in Area C~~**, as the coastal bluffs are protected open space as part of Upper Newport Bay Ecological Reserve**~~.

~~**iv. Additional Development Standards. If Area A overlaps Area B, the area of overlap shall be regulated as Area A. No fences or walls shall be allowed in Area C.**~~

b. ~~**Polaris and**~~ **2024-2042 Galaxy Drive and 2036-2130** Santiago Drive**(even numbers only) – Not Subject to Marine Erosion**.

i. Development Area A. **Between the front property line and the**

setback line. ~~As indicated by the specified distance (in feet) from the front property line on the development area map for principal structures and major accessory structures such as guesthouses, and pools and not less than 10 feet from the bluff edge for accessory structures.~~

ii. Development Area B. **Between the rear setback line and the rear property line. ~~Between the seaward boundary of Area A and a line established by a ten (10) foot setback from the bluff edge (not all lots may have an Area B).~~**

iii. Development Area C. **All portions of the lot not located in Area A or Area B (not all lots have an Area C).** No development allowed in Area C.**~~, as the coastal bluffs are protected open space as part of Upper Newport Bay Ecological Reserve.~~**

~~iv. Additional Development Standards. If Area A overlaps Area B, the area of overlap shall be regulated as Area A. No fences or walls shall be allowed in Area C.~~

c. **1200-1244 Polaris Drive (even numbers only) – Not Subject to Marine Erosion.**

i. Development Area A. Between the front property line adjacent to Polaris Drive and the seaward extent of the predominant line of existing principal structure development.

ii. Development Area B. Between the seaward extent of Area A and the seaward extent of the predominant line of existing accessory structure development.

iii. Development Area C. All portions of the lot not located in Area A or Area B (not all lots have an Area C).

iv. Additional Development Standards. New development shall not extend further onto the bluff face beyond existing development.

*all contour lines refer to NAVD88 contours.

E. **Basements.** Basements are allowed in Area A and may be constructed at an elevation (NAVD88) below any specified contour elevation. Basements shall not daylight on the bluff or slope face beyond Area A.

F. **Grading—All Development Areas.** Grading in Development Area A is limited to the minimum necessary for the construction and placement of allowed structures. Surficial

grading in Development Area B is limited to the minimum necessary for the placement of ~~at-grade structures.~~ **allowed structures with the exception of Map B-2 and Map B-3 (Irvine Terrace).**

G. **Swimming Pools**. Swimming pools shall be of double wall construction with subdrains between the walls and leak detection devices or an equivalent method.

H. **Landscaping and Irrigation.** See Sections 21.30.030 (C)(2), 21.30.075 (Landscaping), and 21.30.085 (Water Efficient Landscaping).

I. **Coastal Hazards and Geologic Stability Reports**. Coastal hazards and geologic stability reports shall be provided pursuant to Section 21.30.015 (C) (Development in Hazardous Areas).

J. **Erosion Control Plan.** An erosion control plan shall be required pursuant to Section 21.30.015 (C) (~~7~~8) (Erosion Control Plan).

K. **Natural Landform and Shoreline Protection**. See Section 21.30.030 (Natural Landform and Shoreline Protection).

L. **Scenic and Visual Quality Protection**. See Section 21.30.100 (Scenic and Visual Quality Protection).

M. **Encroachments.**

1. **Above Grade Encroachments.** Balconies, bay windows, eaves, architectural features, and shading devices attached to principal or accessory structures may encroach from Area A into Area B without limitation, provided they do not require ground support. Balconies, bay windows, eaves, architectural features, and shading devices attached to principal or accessory structures may encroach from Area A or Area B into Area C, provided they do not require ground support and encroach no farther than five feet into Area C and comply with any required minimum setbacks.

2. **Subterranean Structural Encroachments.** Foundations, basement walls, structural supports, and shoring for principal structures may encroach a maximum of twenty-four (24) inches into an adjacent development area (B ~~or C~~).

N. **Nonconforming Structures.** Principal and accessory structures that do not conform to the development standards of this chapter shall comply with Section 21.38.040 (Nonconforming Structures) of this Zoning Code.

O. **Adjustment of Development Area Boundary.**

1. **Reduced Development Area(s).** A bluff development area shall be reduced whenever necessary to:

a. Ensure safety and stability against slope failure (i.e., landsliding) for the economic life of a development. At a minimum, the development area shall

be adjusted to ensure a slope stability factor greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff, whichever is further landward; and

b. Ensure that the principal structures are safe from hazards due to erosional factors and coastal hazards for the economic life of the building.

c. Ensure a minimum setback of twenty-five (25) feet from the bluff edge for the principal structure and major accessory structures such as guesthouses and pools and not less than ten (10) feet from the bluff edge for accessory structures on bluffs subject to marine erosion.

~~2. Increased Development Area(s). A development area's boundaries may be adjusted through the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures) to allow structures and grading not otherwise allowed. In addition to the coastal development permit findings, all of the following findings shall also be made:~~

~~a. The increased bluff development area will ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the bluff or a factor of safety greater than or equal to 1.1 for the seismic condition of the bluff or canyon, whichever is farther landward;~~

~~b. The increased bluff development area will provide adequate protection from erosion factors for the economic life of the development;~~

~~c. The increased bluff development area will be compatible and consistent with surrounding development; and~~

~~d. The increased bluff development area will not have an impact on public views or sensitive habitat areas, and is not otherwise detrimental to the general public health and welfare.~~

21.28.050 – Canyon (C) Overlay District

A. **Applicability.** This section applies to lots located in the Canyon (C) Overlay District as indicated on the Coastal Zoning Map. All development shall comply with the applicable development standards (e.g., setbacks, height) of the underlying coastal zoning district in addition to the standards provided in this section. In situations where an inconsistency occurs between the development standards of the underlying coastal zoning district and the standards in this section the most restrictive standard shall prevail.

B. **Uses Allowed.** Land uses allowed in the C Overlay District are all those uses allowed in the underlying coastal zoning district.

C. **Development Stringline Setback.** Development within the C Overlay District shall not extend beyond the predominant line of existing development on canyon faces by

establishing a development stringline where a line is drawn between nearest adjacent corners of existing ~~principal and accessory~~ structures on either side of the subject property. Development stringlines shall be established for both principal and accessory structures.

1. **Adjustments to the Development Stringline.** The review authority may adjust the development stringline under the following circumstances:

   a. To ensure a slope stability factor of safety greater than or equal to 1.5 at the end of the economic life of the development for the static condition of the canyon or a factor of safety greater than or equal to 1.1 for the seismic condition of the canyon, whichever is farther upward from the canyon base;

   b. To provide adequate protection from erosional factors for the economic life of the development;

   c. To provide an adequate open space protective buffer to sensitive habitat areas.

   d. To protect existing public views and where feasible enhance visual qualities of the coastal canyons as viewed from public areas.

2. **Approved Future Development**. The review authority may permit the stringline setback lines to be drawn from approved, yet undeveloped, buildings and structures authorized by a coastal development permit.

~~D. **Existing Structures.** Existing principal and accessory structures that extend beyond the development stringline setback may be modified or replaced with like principal and accessory structures pursuant to Section 21.38.040 (H) (Nonconformity with Coastal Resource Protection Regulations).~~

~~F~~D. **Floor Area Limit Calculation.** The development stringline setback shall be used only to establish the development area on the ~~canyon face~~ site and shall not be used to determine the maximum floor area limit for the lot.

~~G.~~E. **Swimming Pools**. Swimming pools shall be of double wall construction with subdrains between the walls and leak detection devices or an equivalent method.

~~H~~F. **Landscaping and Irrigation.** See Sections 21.30.030 (C)(2), 21.30.075 (Landscaping), and 21.30.085 (Water Efficient Landscaping).

~~I~~G. **Coastal Hazards and Geologic Stability Reports**. Coastal hazards and geologic stability reports shall be provided pursuant to Section 21.30.015 (C) (Development in Hazardous Areas).

~~J~~H. **Erosion Control Plan.** An erosion control plan shall be required pursuant to Section 21.30.015 (C) (~~7~~8) (Erosion Control Plan).

~~K~~I. **Natural Landform and Shoreline Protection**. See Section 21.30.030 (Natural Landform and Shoreline Protection).

~~L~~J. **Scenic and Visual Quality Protection**. See Section 21.30.100 (Scenic and Visual Quality Protection).

K. **Habitat Protection.** See Chapter 21.30B (Habitat Protection).

L. **Waiver of Future Protection**. New development shall require a waiver of future protection as required by Section 21.30.015(C)(6).

21.28.060 – Height (H) Overlay District

A. **Applicability**. The Height Overlay District includes properties located in the Multiple Residential (RM) Zoning District within Statistical Area A2 (See Map A-14 in Part 8 (Maps) of this Implementation Plan).

B. **Discretionary Review**. A request for an increase in building height under the provisions of the Height (H) Overlay District requires discretionary review through a coastal development permit.

C. **Eligibility**. Properties eligible for the Height (H) Overlay District must have a minimum lot size of one acre.

D. **Maximum Height**. The maximum height limit is forty (40) feet for a flat roof and forty-five (45) feet for a sloped roof. The development shall be three stories maximum.

E. **Required Findings**. The review authority may approve a coastal development permit to allow a project in compliance with this section only after finding all of the following in addition to the findings required for the coastal development permit application in Section 21.52.015 (F) and the findings required by Section 20.30.060(C)(3):

1. The proposed project provides increased building setbacks from public streets and property lines above code requirements;

2. The proposed project provides project enhancements and on-site recreational amenities for the residents above code requirements; and

3. The proposed project provides quality architecture and quality materials.

F. **Standards**. The following standards should be considered for compliance with subsection (E)(3) of this section:

1. Enhanced treatment of building elevations facing public streets with respect to architectural treatment to achieve a high level of design and neighborhood quality (e.g., high quality doors, windows, moldings, metalwork, finishes, stoops, porches, etc.).

2. Building materials and colors should be selected that will complement the proposed design and existing buildings in the surrounding area.

3. Building materials should be high quality, durable, authentic to the architectural style, and applied in a quality fashion.

4. If stucco is used it should have a smooth finish. Sand and lace stucco finishes should be avoided.

5. Lighting should be selected to provide ambiance, safety, and security, without unnecessary spillover or glare.

6. Building owners and tenants should keep the building exteriors and facades clean and in good repair.

G. **Subdivisions**. Projects that include a subdivision shall adhere to the following criteria in order to ensure the provision of enhanced project design features:

1. **Overall Lot Setbacks**. The Multiple Residential (RM) Zoning District setback requirements are applicable to the overall development lot.

2. **Primary Structure Front Setback**. The minimum setback for primary structures is twenty-five (25) feet from any front property line abutting a public street.

3. **Street Enhancements**. A landscaped area is required within the first fifteen (15) feet of the front setback, and shall include trees, shrubs, and ground cover. Fences, walls, or hedges are allowed beyond the fifteen (15) foot front landscape setback.

4. **Side Landscape Setback**. A minimum five-foot landscape setback is required from any side property line abutting a public street, and shall include trees, shrubs, and ground cover. Fences, walls, or hedges are allowed beyond the five-foot setback.

5. **Public Sidewalks**. Sidewalks are required to be a minimum width of eight feet. A meandering sidewalk design is preferred for lots greater than three hundred (300) feet in width and must be designed to be compatible with abutting properties.

6. **Common Open Space**. A minimum of one hundred (100) square feet of common open space per unit is required, not including pathways, and must be dedicated to recreational amenities.

7. **Recreational Amenities**. Recreational amenities are required and may include a recreation building, seating areas, barbecue/grill, fire pit/fireplace, swimming pool/spa, bicycle racks/storage, activity area (such as playing field/lawn, sport court, horseshoe pit, playground, etc.), or similar amenities.

8. **Additional Guest Parking**. Where limited off-site, on-street parking is available, guest parking is required above the code requirement and must be distributed throughout the site.

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification
Double Underlined Bold Text = Language modifications made at 9/8/16 Commission meeting
~~Double Strike-Out Bold Text~~ = Language deleted as part of modifications made at 9/8/16 Commission meeting

Chapter 21.30 – Property Development Standards

Sections:

21.30.010 Purpose and Applicability
21.30.015 General Site Planning and Development Standards
21.30.025 Coastal Zone Subdivisions
21.30.030 Natural Landform and Shoreline Protection
21.30.040 Fences, Hedges, Walls, and Retaining Walls
21.30.050 Grade Establishment
21.30.060 Height Limits and Exceptions
21.30.065 Signs
21.30.070 Outdoor Lighting
21.30.075 Landscaping
21.30.085 Water Efficient Landscaping
21.30.100 Scenic and Visual Quality Protection
21.30.105 Cultural Resource Protection
21.30.110 Setback Regulations and Exceptions
21.30.130 Traffic Safety Visibility Area
~~21.30.135 Water Quality Control~~

21.30.010 – Purpose and Applicability

The purpose of this chapter is to ensure that development is consistent with the Coastal Land Use Plan, complies with the standards of this chapter, produces an environment that is harmonious with existing and future development, and protects the use and enjoyment of neighboring properties.

The standards of this chapter apply to all coastal zoning districts. These standards shall be considered in combination with the standards for each coastal zoning district in Part 2 (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) and Part 4 of this Implementation Plan (Standards for Specific Land Uses). Where there may be a conflict, the standards ~~specific to the coastal zoning district or specific land use~~ that are most restrictive and/or most protective of coastal resources shall prevail~~override these general standards~~.

All structures, additions to structures, and uses shall conform to the applicable standards of this chapter as determined ~~applicable~~ by the Director.

21.30.015 – General Site Planning and Development Standards

A. **Purpose.** This section provides general standards for siting and planning development in the coastal zone, as well as more specific standards applicable to development along the waterfront and on bluffs and canyons.

B. **Location of New Development.** New development shall be located in areas with adequate public services or in areas that are capable of having public services extended or expanded without significant adverse effects on coastal resources. Redevelopment and infill development shall be allowed within and adjacent to the existing developed areas in the Coastal Zone subject to the density and intensity limits and resource protection policies of the Coastal Land Use Plan.

C. **Non-residential Waterfront Development.**

1. **Applicability.** This subsection applies to coastal development permit applications for development on non-residential properties, including but not limited, to coastal-dependent, marine-related and visitor-serving commercial uses, fronting on the waterfront of Newport Bay, the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport. The Coastal Land Use Plan and the Coastal Act protect coastal-dependent, marine-related and visitor-serving commercial uses as priority commercial uses on properties on or near the shoreline.

2. **Considerations.** In reviewing a coastal development permit application for development, the review authority shall consider the following:

a. Whether the development reduces coastal-dependent commercial uses and/or allows coastal-dependent uses to remain;

b. The suitability of the site to accommodate coastal-dependent uses;

c. The ~~project's~~ development's ability to accommodate coastal-related uses;

d. The ~~project's~~ development's ability to create waterfront public spaces and beaches, with adjacent water access and docking facilities that serves as the identity and activity "centers" of Newport Harbor for special events of community/regional interest;

e. Potential impacts to existing coastal-dependent and coastal-related developments, both on ~~project~~ development site and on adjacent properties;

f. The adequacy of marine-related facilities and the present and foreseeable demand for such facilities.

g. The compatibility of the proposed development with the height, bulk, scale and building frontages of surrounding development;

i. Whether the development is so sited and designed as to minimize, and where feasible, avoid shoreline hazards identified in compliance with Section 21.30.015 (E) – Development in Shoreline Hazardous Areas; and

j. Whether any boating facilities (e.g. piers, pier platforms, gangways and dock floats) associated with the non-residential waterfront development

are so sited and designed to protect, and where feasible, expand and enhance public access to and along shoreline areas.

3. **Development Standards.**

a. **Public Access to Bay Front.** Public access and recreational opportunities shall be protected, and where feasible, expanded and enhanced. The dedication and improvement of public access to, and along the waterfront, in conjunction with proposed development and new land uses shall be required pursuant to Chapter 21.30A (Public Access and Recreation).

b. **Commercial Development.** Development shall be consistent with the specific District/Corridor policies of Chapter 2 of the Coastal Land Use Plan, including but not limited, to those policies applicable to West Newport (2.1.3); Mariner's Mile (2.1.4); Balboa Peninsula (2.1.5); Balboa Island (2.1.6); Newport Dunes (2.1.7); and Balboa Bay Club (2.1.8) and for Visitor-Serving and Recreational Development (2.3); and Coastal Dependent/Related Development (2.4).

c. **Priority Uses.** Protect existing and give priority to new coastal-dependent, marine-related and visitor-serving commercial uses on properties on or near the shoreline. For bay-fronting CV and CM District properties, provide new marine-related and visitor-serving retail, restaurant, hotel/motel, institutional, and recreational uses, where feasible.

~~b~~d. **Pump-out Facilities Required.** On waterfront sites where the proposed use includes public marinas, yacht clubs, boat charters or rentals, sports fishing establishments, commercial fishing facilities, ~~marine service stations, gas docks,~~ boat launching facilities, or other similar uses, either public or private, boat holding tank pump-out facilities shall be provided in each case, unless otherwise approved by the review authority as part of a coastal development permit. Said pump-out facilities shall have adequate capacity to accommodate all vessels anticipated at each site. Prior to the issuance of building permits, the Harbor Resources Manager shall approve all plans and specifications of pump-out facilities.

e. **Newport Harbor.** Development in Newport Harbor shall comply with the development standards of Section 21.48.035 (Newport Harbor).

f. **Harbor and Bay Regulations.** Development shall comply with development standards for structures in Newport Bay provided in Chapter 21.30C (Harbor and Bay Regulations).

~~h~~g. Development shall comply with 21.30.015 (E) – Development in Shoreline Hazardous Areas and 21.30.030 – Natural Landform and Shoreline Protection as applicable;

D. **Waterfront Development.**

1. **Applicability.** This subsection applies to coastal development permit applications for development on residential and non-residential properties fronting on the waterfront of Newport Bay, the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), ~~**or**~~ the channels in West Newport and the shoreline areas identified in Section IV of Appendix A of this Implementation Plan. These regulations are in addition to those contained in subsection (C) of this section.

2. **Considerations.** In reviewing a coastal development permit application for ~~**residential**~~ development along the waterfront, the review authority shall consider the following:

   a. The compatibility of the proposed development with the height, bulk, scale and building frontages of surrounding development;

   b. The presence of an existing bulkhead, retaining wall or other similar structure seaward of the proposed development and whether such structure is located on private property or State tidelands and in alignment with structures on adjacent properties;

   c. The need for the existing or potential future bulkhead or similar device to protect the proposed development, and the ability to remove such protective device now or in the future;

   d. The development's ability to enhance public access to State tidelands and shoreline areas through project siting and design or conditions of approval;

   f. Whether the development is designed and sited so as to minimize, and where feasible, avoid shoreline hazards identified in compliance with Section 21.30.015 (E) (Development in Shoreline Hazardous Areas); ~~**and**~~

   g. Whether any boating facilities (e.g. piers, pier platforms, gangways and dock floats) associated with ~~**the non-residential**~~ waterfront development are so sited and designed to protect, and where feasible, expand and enhance public access to and along shoreline areas.

   h. Whether the structure is non-conforming with regard to setbacks from the shoreline, bluff and/or bulkhead; **and**

   i. For improvements to existing structures, whether the proposed improvements increase the degree of non-conformity or result in replacement of more than 50 percent of the existing structure.

3. **Development Standards.**

   a. New development shall be designed and sited to assure stability and structural integrity and avoid destruction of the site and surrounding area

by providing setbacks for principal structures that avoid the need for new or perpetuation of existing shoreline protective devices to the extent possible;

b. The minimum required top of slab~~/finished floor~~ elevation for interior living areas of all new structures shall be as established by the Flood Insurance Rate Maps recognized by the Building Division as part of flood safety requirements and maps adopted by the Council (see Section 21.30.060 (B)(3) or higher where recommended by the Coastal Hazards report required by Section 21.30.015 (F) with acknowledgement of potential need for adaption measures in the future to address flood potential and sea level rise. Notwithstanding the building elevations established by the Flood Insurance Rate Maps, the minimum required top of slab elevation for interior living areas of all new structures shall be at least 9.00 (NAVD 88)~~.~~;

c. The applicant and property owner shall acknowledge any hazards present at the site, assume the risk of injury and damage from such hazards, unconditionally waive any claim of damage or liability against the decision authority from such hazards, and to indemnify and hold harmless the decision making authority against any and all liability, claims, demands, damages, costs, expenses, and amounts paid in settlement arising from any injury or damage due to such hazards;

d. All nonconforming structures particularly when located on State tidelands or beaches available for public use shall be removed;

e. Any existing impediments to public access shall be removed, wherever possible;

f. New development shall protect, and where feasible, expand and complete lateral public pedestrian access along the waterfront with connectivity to beaches, street-ends and shoreline areas providing public access (see Chapter 21.30A (Public Access and Recreation)~~.~~**;**

g. Development shall comply with 21.30.015 (E) – Development in Shoreline Hazardous Areas and 21.30.030 – Natural Landform and Shoreline Protection, as applicable.

h. New development and/or replacement structures shall be brought into conformity with current standards for setback**s** from the shoreline, bluff and/or bulkhead.

~~D~~E. Development in Shoreline Hazardous Areas.

~~**General.** New development shall be sited and designed to avoid hazardous areas and minimize risks to life and property from coastal, geologic, seismic, fire, and other hazards.~~

1. **Applicability~~Local Hazards Mitigation Plan.~~** ~~New development shall be reviewed in relationship to the most current Local Hazard Mitigation Plan (LHMP) to avoid high hazard areas and to implement preventive measures in areas vulnerable to natural hazards.~~This subsection shall apply to coastal development permit applications for proposed development located in:

    a. Shoreline areas identified as hazardous in the most current Local Hazard Mitigation Plan (LHMP);

    b. Shoreline areas identified in Section IV of Appendix A of this Implementation Plan; and

    c. Shoreline areas that are reasonably expected to be impacted by sea level rise based on the best available science over the lifetime of the new development.

2. **Coastal Hazards Report.** Coastal development permit applications for development proposed in shoreline areas subject to current or expected future erosion, flooding/inundation, wave runup, or wave impacts, including those resulting from sea level rise shall ~~submit~~ include a coastal hazards report ~~that~~. The coastal hazards report shall use the methodology in Appendix A and includes the following:

    a. A statement of the preparer's qualifications;

    b. Identification of coastal hazards affecting the site;

    ~~c. Identification of necessary mitigation measures;~~

    ~~d~~c. An analysis of the following conditions:

        (1) A seasonally eroded beach combined with long-term (75-year) erosion factoring in sea level rise;

        (2) High tide conditions, combined with long-term (75-year) projections for sea level rise; and

        (3) Storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event~~.~~;

        (4) An analysis of bluff stability; a quantitative slope stability analysis that shows either that the bluff currently possess**es** a fa**c**tor of safety against sliding of at least 1.5 under static conditions, and 1.1 under seismic (pseudostatic conditions); or the distance from the bluff edge needed to achieve these factors of safety;

        (5) Demonstration that development will be sited such that it maintains a factor of safety against sliding of at least 1.5 under stati**c~~ve~~** conditions and 1.1 under seismic (pseudostatic) conditions for its economic life (generally 75 years). This generally means that the

setback necessary to achieve a factor of safety of 1.5 (static) and 1.1 (pseudostatic) today must be added to the expected amount of bluff erosion over the economic life of the development (generally 75 years).

d. On sites with an existing bulkhead, a determination as to whether the existing bulkhead can be removed and/or the existing or a replacement bulkhead is required to protect existing principa**l**~~e~~ structures and adjacent development or public facilities on the site or in the surrounding areas; and

e. Identification of necessary mitigation measures to address current hazardous conditions such as siting development away from hazardous areas and elevating the finished floor of structures to be at or above the base flood elevation including measures that may be required in the future to address increased erosion and flooding due to sea level rise such as waterproofing, flood shields, watertight doors, moveable floodwalls, partitions, water-resistive sealant devices, sandbagging and other similar flood-proofing techniques.

3. **Bulkhead Condition Report.** Where a coastal hazards report shows that an existing bulkhead on the site cannot be removed and/or an existing or replacement bulkhead is required to protect existing principal structures or public facilities, the applicant shall submit a bulkhead condition report that includes the following:

a. A statement of the preparer's qualifications;

b. An analysis of the condition of any existing bulkhead including whether the top elevation meets current City standards, the condition of the sheetpiles or panels, the condition of existing tiebacks and/or deadmen or similar, and any other relevant conditions;

c. Recommendations regarding the need for repair, augmentation or replacement of the bulkhead or any parts thereof;

d. If augmentation or replacement in the existing alignment is necessary, recommendations that will avoid seaward encroachment of the bulkhead;

d. If replacement is necessary and the existing bulkhead is not in alignment with adjacent bulkheads, recommended alternatives that will relocate the bulkhead in as much in alignment with adjacent bulkheads, and as far landward, as possible.

4. **Geologic Stability Report.** In addition to the coastal hazards report required above, ~~C~~coastal development permit applications for development proposed in shoreline areas of known or potential geologic or seismic hazards shall ~~be required to submit~~ include a ~~geologic~~ geologic/soils/geotechnical report ~~that~~. The geologic/soils/geotechnical report shall use the methodology in Appendix A and include~~s~~ the following:

a. A statement of the preparer's qualifications;

b. Identification of geologic hazards affecting the site;

c. Identification of necessary mitigation measures;

d. A certification that the:

(1) Site is suitable for the proposed development;

(2) Development will have no adverse effect on the stability of the bluff, canyon, or shoreline; ~~and~~

(3) Development is expected to be reasonably safe from failure and erosion over its economic lifetime without ~~having to install additional stabilization features to~~ reliance on existing or future protective structures for stability; and~~in the future.~~[1]

(4) Adaptation options and mitigation measures have been incorporated to address potential risk without having to rely on existing protective structures or the need to install additional protective structures in the future.[2]

e. An analysis of the following factors:

(1) ~~Cliff~~ Slope geometry and site topography, extending the surveying work beyond the site as needed to depict unusual geomorphic conditions that might affect the site;

(2) Identification of the coastal bluff or canyon edge, where applicable;

(~~2~~3) Historic, current, and foreseeable erosion, including changes in shore configuration and sand transport;

(~~3~~4) Geologic conditions (e.g., soil, sediment, rock types and characteristics, etc.) in addition to structural features (e.g., bedding, joints, faults, etc.). The analysis shall include slope stability/failure analyses (i.e., analyses of the possibility that bluff retreat may occur suddenly and catastrophically through slope failure) and erosion rate estimates (i.e., estimates of the possible rate at which bluff retreat may occur over time);

(~~4~~5) Evidence of past or potential landslide conditions, the implications of the condition for the proposed development, and the potential effects of the development on landslide activity;

(~~5~~6) Impact of construction activity on the stability of the site and adjacent area;

[1] This standard shall not apply to development along Newport Bay with an existing bulkhead.
[2] This standard shall not apply to development along Newport Bay with an existing bulkhead.

(~~6~~7) Ground and surface water conditions and variations, including hydrologic changes caused by the development;

(~~7~~8) The erosion potential of the site and mitigation measures to be used to ensure minimized erosion problems before and after proposed construction (i.e., landscape and drainage design);

(~~8~~9) Effects of marine erosion factoring in long-term (75-year) coastal bluff retreat projections for sea level rise;

(~~9~~10) Potential effects of seismic forces resulting from a maximum credible earthquake; ~~and~~

(~~10~~11) Any other factors that might affect bluff, canyon, or shoreline stability~~.~~; and

(12) Identification of the Geologic Setback Line (GSL) necessary to assure a 1.5 factor of safety (static) and 1.1 (pseudostatic) for 75 years without reliance upon any deepened foundation system (e.g. caissons).

5. **Waiver of Future Protection.** As a condition of approval of new development, the review authority shall require an agreement between an applicant, including its successors and assigns, and the City in favor of the City, in a form approved by the City Attorney, and recorded by the applicant, waiving any potential right to future protection to address situations in the future in which development is threatened with damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards. The applicant shall agree to:

   a. Never construct structures or features over the economic life of the development to protect the development; and

   b. Remove and relocate all portions of a development, including associated fallen debris at the base of a bluff or canyon and/or State tidelands, if a government agency determines that the development is hazardous or a threat to the public.

~~7~~6. **Fuel Modification.**

   a. **Applicability.** This subsection provides standards for development within and adjacent to wildland fire hazard areas.

   b. New development in urban wildland interface areas shall be sited and designed to avoid fire hazard areas, ~~incorporate~~ minimize required fuel modification zones, and avoid the need to extend fuel modification zones into sensitive habitats and areas of visual prominence to the maximum extent ~~-~~feasible. Alternative means to thinning and/or vegetation removal of native vegetation for fire hazard management, such as minimizing the

building envelope, and/or siting of the structure(s) away from hazard areas, and/or use of fire retardant design and materials are preferable.

c. Fire risk reduction shall be determined on a case by case basis and may include the following, but are not limited to:

(1) Compliance with Building Code and Fire Code requirements for project;

(2) Tile roof treatments;

(3) Irrigated buffer zones;

(4) Installation of masonry or other non-combustible fire resistant walls;

(5) Boxed eaves;

(6) Reduced landscaping; and

(7) Other such alternative construction methods.

d. Fuel modification zones abutting sensitive habitats shall consist of fire-resistive, native plant species from the City-approved plant list.

e. Invasive ornamental plant species shall be prohibited in fuel modification zones abutting sensitive habitats.

f. Fuel modification zones shall be located within the site being developed. Fuel modification performed by private property owners cannot go beyond property lines without agreement by the adjacent property owners.

g. Fuel modification on public land to protect existing private development shall be avoided whenever feasible; if avoidance isn't feasible, measures must be employed to minimize the amount of fuel modification necessary on public land.

h. No new division of land shall be allowed that would require new fuel modification (e.g. vegetation removal) or new fuel breaks in environmentally sensitive habitat (ESHA) or on public open space or park lands to protect new development within the resultant lots.

~~8~~7. **Erosion Control Plan.** Applications for development located within 100 feet of a bluff or canyon edge involving substantial alterations to existing buildings or site design, or construction of new buildings shall include a site-specific erosion control plan. The plan shall be prepared by a registered engineer qualified in hydrology and soil mechanics, and shall incorporate drainage improvements, irrigation systems, and/or native or drought-tolerant vegetation into the design to minimize

bluff or canyon recession and will eliminate or mitigate any adverse impacts on local shoreline sand supply to the maximum extent feasible.

21.30.025 – Coastal Zone Subdivisions

In addition to all the other applicable specific provisions of this Chapter, the following general provisions shall apply in review of subdivision of land.

A. **Compliance with Local Coastal Program Required.** Any proposed subdivision lying wholly or partially within the Coastal Zone shall be designed to comply with and implement the goals, policies and various components of the ~~applicable~~ Local Coastal Program. No subdivision of land shall be approved unless development of all created parcels can occur in compliance with the applicable provisions of the certified Local Coastal Program.

B. **Public Access and Open Space Areas.** When the Local Coastal Program indicates the location of a public accessway or of any permanent open space or conservation area within the boundaries of a proposed subdivision, such accessway, open space or conservation area shall be shown on the tentative map and offered for dedication to the City. When an accessway, open space or conservation area is already in existence at the time a tentative map is filed, the status of such accessway, open space or conservation area, whether public or private, shall be identified on the map.

1. Where feasible, dedications shall provide connections to existing and proposed bikeways and trail systems.

2. Park and recreational facilities shall be adequate to accommodate the needs of new residents of the subdivision.

3. Where feasible, public trails, recreation areas, and viewing areas shall be provided adjacent to public coastal view corridors.

4. New planned communities shall dedicate or preserve as open space the coastal bluff face and an area inland from the edge of the coastal bluff adequate to provide safe public access and to avoid or minimize visual impacts.

C. **Hazardous Areas.** Proposed subdivisions shall be designed to avoid current hazardous areas, as well as areas that may become hazardous due to future changes, such as from sea level rise, and minimize risks to life and property from coastal and other hazards. No division of land near the shoreline, including along the shoreline and bluffs, and including abutting the ocean, bays, lagoons, and other coastal water bodies, unless the new or reconfigured parcels can be developed safe from geologic and other hazards for a minimum of 75 years, and unless shoreline protective devices are prohibited to protect development on the resultant parcels.

D. **Coastal Resource Protection.** Proposed subdivisions shall be designed to minimize impacts to natural landforms ~~coastal bluffs~~ and shall preclude new development within environmentally sensitive habitat areas (ESHA) and ~~minimize~~ shall prevent impacts (e.g., fencing, vegetation removal, fuel modification, etc.) that would significantly degrade ~~to environmentally sensitive habitat~~ ESHA areas.

E. **Alternative Transportation.** Proposed subdivisions of 100 dwelling units or more shall be designed to facilitate provision or extension of transit service to the new subdivison~~and~~. All new subdivisions shall also provide non-automobile circulation within the development to the greatest extent possible.

F. **Private Streets.** New private streets that inhibit public access to and along the shoreline and to beaches, coastal parks, trails, or coastal bluffs are prohibited.

G. **Piers and Docks.** The creation of a new waterfront lot shall not establish a right to an accompanying boating facility (e.g. pier, dock, or mooring).

21.30.030 – Natural Landform and Shoreline Protection

A. **Purpose.** This section provides regulations for the protection of natural landforms and shoreline features. The intent is to ensure that development is sited and designed to minimize hazards to life and property; to ensure the structural integrity of bluffs and canyons; to neither create nor contribute to erosion or adverse impacts on shoreline sand supply and the shoreline; **to maintain a system of harbor bulkheads that are essential to the continued operation of Newport Harbor** and to protect public access, public views, and scenic qualities of the Coastal Zone; and to implement policies of the Coastal Land Use Plan.

B. **Applicability.** This section applies to coastal development permit applications for development applications on lots that abut or include bluffs, canyons, beaches, or the shoreline.

~~1. **Exempt Development.** This section does not apply to public improvements that provide public access, protect coastal resources, or provide for public safety (e.g., walkways leading to approved public beach access facilities, open fences for safety or resource protection, public seating benches, lighting standards, signs, etc.), provided that:~~

~~a. No feasible alternative exists; and~~

~~b. The improvements are designed and constructed to:~~

~~(1) Minimize alteration of topography;~~

~~(2) Minimize erosion; and~~

~~(3) Be visually compatible with the surrounding area to the maximum extent feasible.~~

C. **Development Standards.** Development proposed on coastal bluffs or within coastal canyons or within shoreline areas identified in Section IV of Appendix A of this implementation Plan are subject to the following standards:

1. **Bluff and Canyon Setbacks.**

a. **B Overlay and C Overlay Districts.** As provided in Section 21.28.040 (Bluff (B) Overlay District) and Section 21.28.050 Canyon (C) Overlay District).

b. **Planned Communities.** Planned communities established before the January 27, 2006, certification date of the Coastal Land Use Plan (i.e., Bayside Residential, Bayview Landing, Newport Coast, Newport Ridge, Newporter North (Harbor Cove), Park Newport, and Upper Castaways) shall maintain the setbacks established by the approved site plan.

c. Bluff or canyon development setbacks shall be increased if found to be necessary to ensure safety and the stability of the development by a coastal hazard and/or geologic stability report required by Section 21.30.015 (E).

d. **Other Coastal Zoning Districts**. As required by the development standards for that coastal zoning district.

2. **Landscaping and Irrigation.** In addition, to the standards in Section 21.30.075 (Landscaping) the following standards shall apply:

a. Plant material shall provide a transition area between developed areas and natural habitats and shall be drought-tolerant and either native or noninvasive to minimize the need for irrigation beyond initial plant establishment.

b. The selection and siting of landscaping materials shall minimize impacts to public views at maturity.

c. Permanent irrigation shall not be allowed on or near a bluff or canyon protected by dedication to the Upper Newport Bay Nature Preserve or dedicated as open space as part of a planned residential development. Temporary irrigation (e.g., above-ground sprayers, microsprayers, drip irrigation, etc.) may be allowed on a case-by-case basis as necessary to establish native or naturalized plant materials. Temporary irrigation shall be removed upon establishment of the plant materials

d. Irrigation systems shall be designed to minimize coastal bluff and canyon erosion. Water-efficient systems (e.g., drip, mini-spray, bubbler-type, or similar drip systems) shall be used on bluff and canyon faces and within fifty (50) feet of a bluff edge or canyon edge. Low-flow sprinkler heads with matched precipitation rates shall be used when spray or rotor-type heads are specified for watering shrubs and groundcover areas.

3. **Protective Structures.** The following standards shall apply to the construction of protective structures:

a. **Limits on Use.** The construction of protective structures shall be prohibited, except to protect coastal-dependent uses, or public beaches in danger from erosion and when designed to eliminate or mitigate adverse

impacts on local shoreline sand supply, and existing~~ development~~ structures that are:

(1) Not subject to recorded waivers of future protection.

(2) Threatened by natural hazards, provided that the protective structures are limited to the minimum required to protect the existing~~ development~~structure and located on private land, not State tidelands. For purposes of this subsection, "existing ~~development~~ structure" shall consist only of a principal structure (e.g., residential dwelling, required garage, second residential unit, etc.) and shall not include accessory structures (e.g., cabanas, decks, landscaping, patios, pools, stairs, tennis courts, etc.).

b. **Enlargement and Expansion of Land Areas.** The construction of protective structures shall be prohibited for the purpose of enlarging or expanding areas for new development or for new development. However, this shall not preclude the expansion or encroachment into coastal waters to the minimum extent necessary to repair, maintain, or replace an existing protective device that is in general alignment with any adjacent protective device(s). Under no circumstances shall the backfill be used to create new usable land areas.

c. **Use of Sand Berms and Sand Dunes.** In shoreline areas, temporary sand berms and/or permanent sand dunes may be installed to protect structures from wave uprush, provided that their installation minimizes significant impacts to coastal access and resources. Temporary sand berms shall avoid all areas of existing southern foredune and southern dune scrub habitat. When feasible, nonstructural methods (e.g., dune restoration, sand nourishment, etc.) shall be used instead of shoreline protective structures.

d. Protective devices shall be designed and sited to:

(1) ~~To b~~Be as far landward as possible and within private property, where feasible;

(2) ~~e~~Eliminate or mitigate adverse impacts to coastal resources;

(3) ~~to m~~Minimize alteration of natural shoreline processes;

(4) ~~to p~~Provide for~~ coastal~~ public access to State tidelands and recreational areas and facilities;

(5) ~~to m~~Minimize visual impacts and maximize the enjoyment of the natural shoreline environment;~~ and~~

(6) ~~to e~~Eliminate or mitigate adverse impacts on local shoreline sand supply;~~.~~

(7) To have the smallest footprint possible; and

(8) Cause no reduction in public access, use, or enjoyment of the natural shoreline environment, and preserve or provide access to public recreational lands and facilities.

e. **Mitigation Required.** Mitigation shall be required, either through fees or other actions as applicable and feasible, for adverse impacts on local shoreline sand supply, for loss of sandy beach and other coastal habitats, and for adverse impacts to public access, visual, and other coastal resources.

f. **Periodic Monitoring Required.** Periodic monitoring of the protective device and surrounding site shall be required to examine excessive scour, erosion, or other impacts to on-site and adjacent resources, exposure of subsurface elements, as well as damage to the protective device or movement from its initial footprint. The landowner shall apply for a coastal development permit to undertake any necessary repair and maintenance to return the structure to its authorized condition, including reburial of exposed subsurface elements and/or visual treatment.

g. **Limits on Authorization.** Authorization of the protective device shall be limited to the development being protected. Such permits shall expire when the existing structure requiring protection is redeveloped, is no longer present, or no longer requires a protective device, whichever comes first. Coastal development permits shall also be conditioned to require the removal of shoreline protective devices when they are no longer needed.

h. **Removal from State Tidelands Required.** Encroachment permits and removal agreements shall be required for protective structures that are located on State tidelands and/or subject to potential future removal.

j. **Bulkheads for nonresidential and residential waterfront development (as identified in Sections 21.30.015(~~B~~BC) and (~~C~~CD)).** In cases where the coastal hazards report required in Section 21.30.015 (E)**(4)**~~(1)~~**(2)** establishes that an existing bulkhead on the site cannot be removed and/or an existing or replacement bulkhead is required to protect existing ~~principle~~ **principal** structures **and adjacent development** or public facilities **on the site or in the surrounding areas,** the following shall apply **to new development**:

(1) The principal structure(s) shall be setback a sufficient distance from the existing or replacement bulkhead to allow for repair and maintenance of that bulkhead including access to any subsurface deadman or tiebacks;

(2) The principal structure(s) shall be setback a sufficient distance to allow for realignment of necessary bulkheads as far landward as possible and in alignment with bulkheads on either side;

(3) The development shall be in compliance with Section 21.30.030(C)(3) - Protective Structures to the maximum extent feasible;

(4) As a condition of approval an agreement shall be required between the landowner, including its successors and assigns, and the City in favor of the City, in a form approved by the City Attorney, and recorded by the applicant, waiving rights to future protection, including repair or maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead;

4. **Removal or Relocation of Structures.**

a. **Structures Subject to Waivers.** Development subject to a Waiver of Future Protection recorded in compliance with Section 21.30.015 (~~D~~E)(5) shall be removed or relocated when threatened by erosion, instability, or other hazards.

b. **Unauthorized Structures.** Unauthorized structures, including protective structures, fences, graded pathways and stairways, that encroach into bluffs or canyons or State Tidelands shall be removed.

5. **Open Space Dedication for New Planned Communities**. Coastal development permit applications for new planned communities shall dedicate or preserve as open space the bluff or canyon face and an area inland from the edge of the bluff or canyon adequate to provide safe public access and to avoid or minimize visual impacts.

6. **Swimming Pools.** Swimming pools shall ~~be~~ incorporate design features that minimize or avoid leaks, such as use of double wall construction with subdrains between the walls and leak detection devices or an equivalent method.

7. **Site Planning and Design Techniques.** Site design and construction techniques that minimize adverse impacts on bluffs and canyons to the maximum feasible extent shall be used.

a. **Site Planning Techniques**. Site planning techniques ~~may~~ include, but are not limited to the following:

(1) Siting new development on the flattest area of a site, except when an alternative location is more protective of bluff and canyon resources;

(2) Minimizing alteration of the site's natural topography by blending altered slopes into the natural site contours and by preserving rock

outcroppings;

(3) Locating development within the existing building pads;

(4) Minimizing the removal of native vegetation;~~.~~ or

(5) Clustering building sites~~.~~; and

(6) Avoid hazardous areas and minimize risks to life and property from coastal, geologic, seismic, fire, and other hazards, including those resulting from sea level rise over the life of the development.

b. **Design Techniques.** Design techniques ~~may~~ include, but are not limited to the following:

(1) Designing structures to conform to the natural contours of the site, and arranging driveways and patio areas to be compatible with the slopes and structure design;

(2) Utilizing special foundations (e.g., stepped, split-level, or cantilever designs; etc.); or

(3) Detaching parts of the development (e.g., detaching a garage from a dwelling unit)~~.~~; and

(4) Designing structures, as described in Appendix A, to include sea level rise adaptation measures for an identified sea level rise scenario as well as allow for the implementation of planned adaptation measures that could be needed under other sea level rise scenarios in the future.

21.30.040 – Fences, Hedges, Walls, and Retaining Walls

This section provides standards for the provision of fences, hedges, walls, and retaining walls for development in all Coastal Zoning Districts.

A. **Maximum Height Allowed.**

1. **Fences, Hedges, and Walls.** Maximum heights of fences, hedges, and walls are shown in Table 30-1. Fences, hedges, and walls ~~may~~ shall not be allowed or allowed with a ~~be~~ reduced ~~in~~ height when necessary to protect coastal resources such as public coastal view, public access, and sensitive habitat.

TABLE 21.30-1
MAXIMUM HEIGHT OF FENCES, HEDGES, AND WALLS

Location	Maximum Height
Front setback areas.	42 inches. See subsection (B) of this section.
Rear and interior side setback areas.	6 feet in residential and commercial coastal zoning districts. 8 feet in industrial coastal zoning districts adjacent to residential uses.
Setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport.	42 inches from existing grade prior to construction. Setback areas on Balboa Island and Little Balboa Island that are abutting or adjacent to Newport Bay are regulated by subsection (B) of this section.
At intersections of streets, alleys and driveways within traffic sight areas.	See Section 21.30.130 (Traffic Safety Visibility Area).

2. **Retaining Walls.** The maximum height of a retaining wall shall be eight feet measured from finish grade at the base of the wall, not including any required guardrails. A minimum horizontal separation equal to the height of the tallest retaining wall shall be provided between retaining walls, except that the required separation shall not be more than six feet. The above requirements shall not apply to retaining walls that are an integral part of principal structures. An increase in the height of a retaining wall may be requested in compliance with Chapter 21.52 (Coastal Development Review Procedures).

B. **Special Area Regulations.** In front setback areas in Balboa Peninsula, Balboa Island, Corona del Mar, West Newport, East Bay Front on Little Balboa Island, and North Bay Front and South Bay Front on Balboa Island fences and walls shall be allowed to extend to a height of five feet; provided, that any portion of the fence or wall above two feet shall be constructed of open grillwork, wrought iron, latticework, pickets, Plexiglas, or similar materials so that at least forty (40) percent of the portion of the fence or wall above two feet is open. See Figure 3-1.

C. **Exceptions to Maximum Height.**

1. **Grade Differential.** Where the existing or proposed grade of a lot adjacent to the front setback area is more than twenty-four (24) inches above the adjacent sidewalk (or curb elevation where no sidewalk exists), a maximum twenty-four (24) inch high retaining wall shall be allowed to be located at the front property line. Additional retaining walls shall be allowed to a maximum height of thirty-six (36) inches each, provided they are set back a minimum distance of twenty-four (24) inches from the inward face of the previous retaining wall. Additional retaining walls shall be subject to the same limitation. A maximum forty-two (42) inch guardrail shall be allowed atop the uppermost retaining wall for safety purposes, provided the guardrail is constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence is open. See Figure 3-1.

2. **Decorative Fence/Wall Details and Lights.**

a. Finials, light fixtures, pilaster caps, pots, and similar decorative items may be placed on fence or wall vertical support elements (e.g., pilasters, pillars, posts, etc.), provided they are secure and do not extend more than twelve (12) inches above the maximum allowed height.

b. The number of decorative items (e.g., finials, pilaster caps, pots, and similar items) and light fixtures shall be limited to not more than one item or fixture for every six lineal feet of fence or wall.

3. **Fencing for Pools and Spas.**

a. Swimming pools, spas, and other similar features shall provide safety fencing.

b. Fencing and guardrails for ponds, spas, and swimming pools located in a front setback area or in the rear and side setback areas regulated as front setback areas on lots with forty-two (42) inch height limitations may be allowed to exceed the height limit in compliance with the following standards:

(1) Fences shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least forty (40) percent of the fence or wall is open. In lieu of the above, glass or Plexiglas may be allowed; and

(2) Fence height shall be limited to the minimum required for safety.

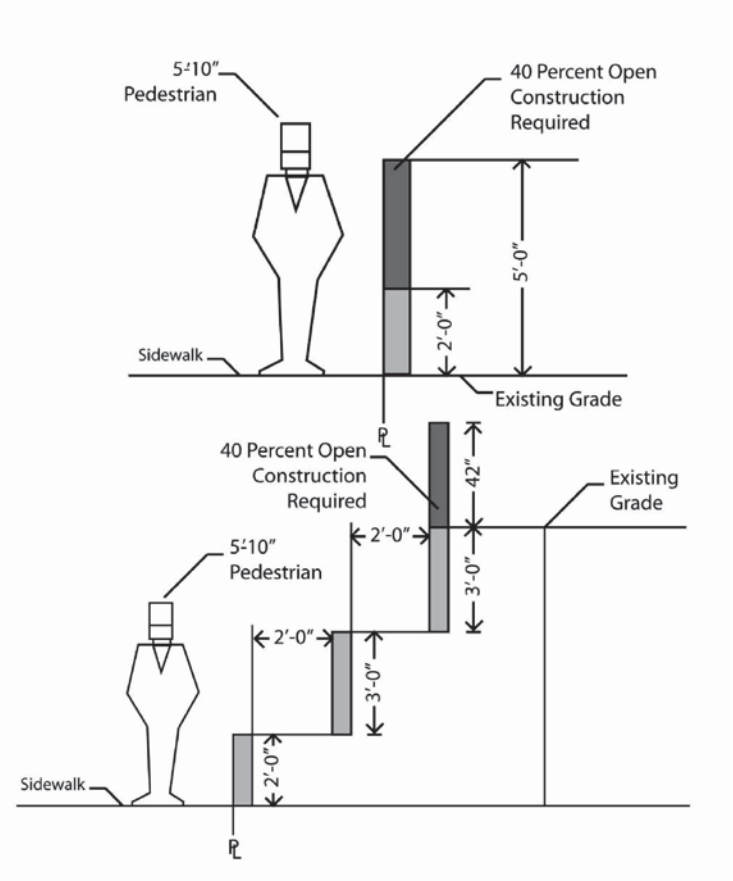


Figure 3- 1

Grade Differential at Front Property Line

4. **Residential Uses Adjacent to Commercial Uses or Alleys.** For residential lots adjacent to nonresidential coastal zoning districts or commercial alleys, fences, walls, or hedges may be up to eight feet in height in required residential side yards for buffering and/or sound attenuation.

5. **Residential Lots Where the Top of Slab Is Required to Be Raised to 9.0 NAVD88 and Where the Grade of the Lot Is Proposed to Be Increased.** The height of fences and walls within required side and rear yard setback areas may be increased provided the height does not exceed six feet as measured from the proposed finished grade and nine feet as measured from the existing grade prior to construction. Additionally, the height of fences or walls shall not exceed nine feet as measured from the existing grade of an abutting lot. The portion of the fence or wall above six feet in height from the existing grade prior to construction shall be constructed of open grillwork, wrought iron, latticework, pickets, or similar materials so that at least sixty (60) percent of the fence or wall is open or is constructed of a transparent material.

D. **Measurement of Fence or Wall Height.** The height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

E. **Prohibited Fence Materials.** Barbed wire, electrical fences, razor wire, and other similar materials shall not be allowed in residential coastal zoning districts.

21.30.050 – Grade Establishment

This section provides regulations for establishing the slope and grade of a lot for the purpose of identifying the surface from which to measure structure height to be used in conjunction with the provisions of Section 21.30.060 (Height Limits and Exceptions).

A. **Establishment of Slope.** In order to determine which of the two methods to use to establish the grade of the lot from which to measure structure height as provided in subsection (B) of this section, it is first necessary to determine the slope of the lot as follows:

1. The slope of a lot shall be determined using a four-sided polygon that most closely approximates the actual footprint of the proposed structure. The area of the four-sided polygon shall not be smaller than the footprint of the proposed structure and shall be located entirely within the buildable area of the lot (see Figure 3-2);

2. The slope of the polygon shall be determined using the highest and lowest elevation at any of the four corners of the polygon and the distance between the respective corners;

3. If the location of the polygon selected by the applicant is not clearly representative of the lot's topography or representative of the prevailing slopes on adjoining lots because of retaining structures or previous excavation/fill, the Director shall establish the appropriate area to be used to determine the slope of the lot.

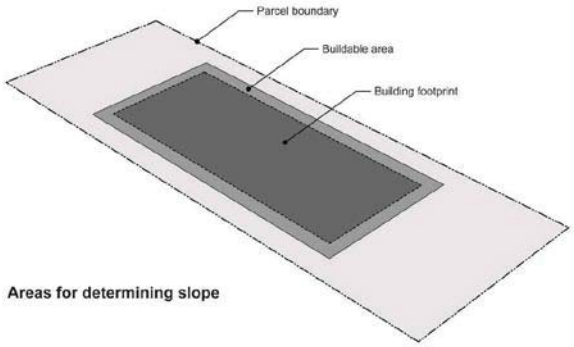


Figure 3- 2 Area for Determining Slope

B. **Establishment of Grade.** The grade of a lot shall be established by one of the following methods unless the Director establishes the grade in compliance with subsection (C) of this section (Establishment of Grade by Director).

1. **Subdivisions.** If the City approves or has approved a grading plan in conjunction with an approved subdivision, the established grade shall be the finished grade as shown on the grading plan or final subdivision map.

2. **Five Percent or Less Slope.** On lots where the slope of the four-sided polygon is five percent or less, the grade of the surface from which structure height is measured shall be a plane established using the average of the elevations at each corner of the four-sided polygon. Example: A + B + C + D = X; X/4 = Established grade elevation from which to measure structure height.

3. **More than Five Percent Slope.**

   a. On lots where the slope of the four-sided polygon is greater than five percent, the established grade from which structure height is measured shall be a plane established by determining the elevation of the lot at five evenly spaced points along each of the two side property lines and connecting each of the points along a side property line with the corresponding point on the opposite side property line.

   b. The five evenly spaced points along each side property line shall be located so that one point is located at the intersection of the front setback line with the side property line and another point is located at the intersection of the rear setback line with the side property line. The other three points along the side property line shall be located so that all five points are equidistant from each other (see Figure 3-3).

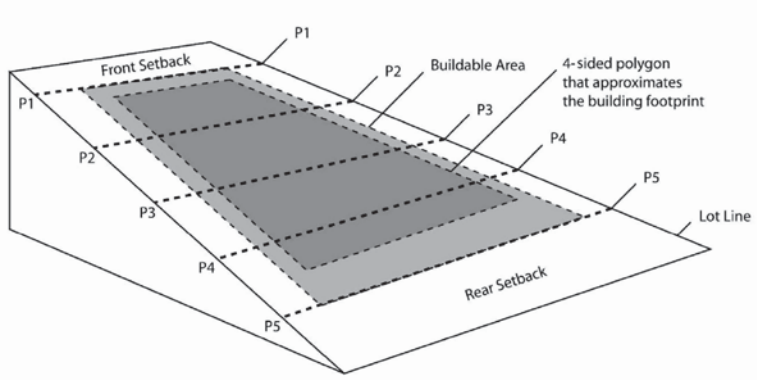


Figure 3- 3 Slope Greater than Five Percent

   c. On lots that slope an average of twenty (20) percent or greater, or on irregularly shaped or sloping lots, the Director may require that additional points of elevation be provided.

C. **Establishment of Grade by Director.** If the Director finds that the existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot, the Director may establish the grade that is reasonable and comparable with the grades of adjoining lots and that will not be detrimental or injurious to property and improvements on adjoining lots.

21.30.060 – Height Limits and Exceptions

A. This section establishes regulations for determining compliance with the maximum allowable height limits established for each coastal zoning district by Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards).

B. **Height of Structures and Measurement.**

1. **Structure Height Established.** Structures shall not exceed the maximum allowable height for the coastal zoning district in which the structure is located, except as provided in subsection (C) of this section (Increase in Height Limit) or subsection (D) of this section (Exceptions to Height Limits).

2. **Height Measurement.** Height shall be measured as the vertical distance from the established grade of the pad to the highest part of the structure, including any protective guardrails and parapet walls. Structures with sloping roofs shall be measured to the highest peak of the roof. Structures with flat roofs shall be measured to the top of the roof, guardrail, or parapet wall. The established grade of the pad shall be determined by one of the methods identified in Section 21.30.050 (Grade Establishment).

3. **Flood Hazard Areas.**

a. **~~Finished First Floor~~ Top of Slab Elevation for Interior Living Areas.** The minimum required top of slab~~/finished floor~~ elevation for interior living areas of all new ~~structures~~ development within flood hazard areas shall be as established by the Flood Insurance Rate Maps recognized by the Building Division as part of flood safety requirements and maps adopted by the Council. Notwithstanding the building elevations established by the Flood Insurance Rate Maps, the minimum required top of slab elevation for interior living areas of all new structures/new development shall be at least 9.00 (NAVD 88).

(1) **Sea Level Rise**. The minimum required top of slab elevation~~/finished floor elevation~~ for interior living areas may be increased as necessary to minimize hazards associated with long-term sea level rise over the economic life of the structure identified in the coastal hazards report pursuant to Section 21.30.015(E)(2). To address the uncertainty inherent in sea level rise projections (see Appendix A), adjustments to the top of slab elevation may be based on a moderate sea level rise scenario within the projected range of possible sea level rise amounts identified by the current best available science, so long as the structure's design can, if necessary, accommodate future adaptation measures for the high sea level rise scenario that comply with the certified LCP and do not result in coastal resource impacts.

b. **Height Measurement.** The height of a principal structure shall be measured from the top of slab elevation.

c. **Accessory Structures.**

i. The height of accessory structures, except fences, hedges, walls, and retaining walls (see Section 21.30.040) shall be measured from existing grade of the lot prior to construction.

ii. Exception: When a new principal building is required to have the top of slab constructed at elevation 9.00 NAVD88 and when the grade surrounding the new principal building is proposed to be increased, the height of accessory structures shall be measured from the proposed finished grade.

4. **Structures on Ocean Boulevard.** New structures and additions/changes to existing structures on the bluff side of Ocean Boulevard in Corona del Mar shall not be constructed to a height greater than the elevation of the adjacent curb. The top of curb height limit shall be established by a plane created by the extension of the top of curb line across each lot.

C. Increase in Height Limit.

1. **Procedure.** The height limits established in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards) may be increased within specified areas with approval of a coastal development permit when all applicable findings are met in compliance with subsection (C)(3) of this section (Required Findings). No increase above thirty-five (35) feet may be authorized for commercial, mixed-use and residential structures within the Shoreline Height Limitation Zone, except as specified for the Lido House Hotel and Marina Park Lighthouse Feature identified in 21.30.060 (D) – Exceptions to Height Limits. Height limits established as part of an adopted planned community shall not be subject to this subsection (See 21.26.050~~5~~5 (Planned Community Coastal Zoning District Property Development Standards)).

2. **Height Limit Areas.** The height limit areas shall be as follows:

a. **R-A, R-1, R-BI, and R-2 Coastal Zoning Districts Height Limit Area**. In this height limit area the base height limit for structures with flat roofs is twenty-four (24) feet (including guardrails and parapet walls) and the base height limit for structures with sloped roofs is twenty-nine (29) feet. The height of a structure may be increased up to a maximum of twenty-eight (28) feet with a flat roof or thirty-three (33) feet with a sloped roof through the approval of a coastal development permit as provided above. This height limit applies in all R-A, R-1, R-BI, and R-2 Coastal Zoning Districts as shown on the Coastal Zoning Map.

b. **RM Coastal Zoning District Height Limit Area.** In this height limit area the base height limit for structures with flat roofs is twenty-eight (28) feet (including guardrails and parapet walls) and the base height limit for structures with sloped roofs is thirty-three (33) feet. The height of a structure may be increased up to a maximum of thirty-two (32) feet with a flat roof or thirty-five (35) feet in the Shoreline Height Limitation Zone and

thirty-seven (37) feet outside the Shoreline Height Limitation Zone with a sloped roof through the approval of a coastal development permit as provided above. This height limit applies in the RM Coastal Zoning District as shown on the Coastal Zoning Map.

c. **Nonresidential, Shoreline Height Limit Area.** In this height limit area the base height limit for nonresidential and mixed-use structures with flat roofs is twenty-six (26) feet and the base height limit for structures with sloped roofs is thirty-one (31) feet. The height of a structure may be increased up to a maximum of thirty-five (35) feet with a flat roof or, outside the Shoreline Height Limitation Zone, forty (40) feet with a sloped roof through the approval of a coastal development permit application as provided above. The shoreline height limit shall apply to all nonresidential coastal zoning districts and mixed-use coastal zoning districts within the boundaries of the Shoreline Height Limit Area shown on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).

d. **Nonresidential, Nonshoreline Height Limit Area.** In this height limit area the base height limit for nonresidential and mixed-use structures with flat roofs is thirty-two (32) feet and the base height limit for structures with sloped roofs is thirty-seven (37) feet. The height of a structure may be increased up to a maximum of fifty (50) feet with a flat roof or fifty-five (55) feet with a sloped roof through the approval of a coastal development permit as provided above. This height limit shall apply to all nonresidential, nonshoreline coastal zoning districts and mixed-use coastal zoning districts within its boundaries. The nonresidential, nonshoreline height limit area is identified as all of the area outside the Shoreline Height Limit Area shown on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).

e. **High Rise Height Area.** In this height limit area, the maximum height limit shall be three hundred (300) feet and no further increase to the maximum allowed height is available. This height limit is applicable to all nonresidential coastal zoning districts within its boundaries as indicated on the High Rise and Shoreline Height Limit Areas Map (See Map H-1 in Part 8 (Maps) of this Implementation Plan).

3. **Required Findings.** The review authority may ~~adopt~~ approve a coastal development permit to allow an increase in the height of a structure above the height limit only after first making all of the following findings in addition to the findings required in Section 21.52.015 (F):

a. The project is sited and designed to protect public views to and along the ocean and scenic coastal areas; and

b. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and

c. Where feasible, the project will restore and enhance visual quality in visually degraded areas; and

d. Where the project is located in the Shoreline Height Limitation Zone, the project will not exceed thirty-five (35) feet.

D. Exceptions to Height Limits. Except as specified in subsections 3, 14 and 15 below, the following apply everywhere other than within the Shoreline Height Limitation Zone.

1. **Assembly and Meeting Facilities.** Structures used as places of worship may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures). Where more than one structure exists or is proposed for the site, only the principal structure shall be eligible for approval to exceed the maximum height limit.

2. **Architectural Features.** Architectural features (e.g., cupolas, weathervanes, and other decorative rooftop features) of an open nature, but excluding guardrails, parapet walls, and similar features, may be allowed up to the height limit for a sloped roof. Architectural features with a height greater than that allowed for a sloped roof shall be subject to the approval of a coastal development permit.

3. **Boat Cranes.** Boat cranes used in conjunction with an approved marine-oriented nonresidential use may be allowed to exceed the maximum height limit up to a maximum operating height of seventy (70) feet, subject to the approval of a coastal development permit.

4. **Chimneys and Vents.** Chimneys and spark arrestors for fireplaces and roof-mounted vents shall be allowed to exceed the allowed height limits as follows:

   a. Chimneys may extend above the allowed height limit a maximum of two feet or a greater height if required by the City's Building Code;

   b. Spark arrestors may extend above the top of a chimney a maximum of two feet, provided they do not exceed a width of two feet and a length of four feet; and

   c. Roof-mounted vents may extend above the allowed height limit a maximum of twelve (12) inches or a greater height if required by the City's Building Code.

5. **Dormers.** Dormers may be allowed to exceed the maximum height; provided, that:

   a. The total width of the dormer that exceeds the height limit shall not be greater than thirty-five (35) percent of the length of the side of the structure where the dormer is located;

   b. The roof pitch of the dormer shall not be less than 2:12; and

   c. The peak of the dormer shall not be higher than the peak of the roof on which it is located.

6. **Elevator Shafts, Enclosed Stairwells.** Elevator shafts and enclosed stairwell housings may exceed the allowed height limit by the minimum height required by the California Building Code, provided they do not exceed thirty (30) square feet in area, unless a larger elevator is required by the California Building Code and/or the Fire Department. In these instances, the area of the elevator or stair housing shall not exceed the minimum size required by the California Building Code and/or the Fire Department. Elevator shafts and enclosed stairwell housings that exceed thirty (30) square feet in area shall have sloped roofs with a minimum 3/12 pitch.

7. **Fences, Hedges, and Walls.** Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls) sets forth exceptions to height limits for these structures.

8. **Flag Poles.**

   a. Ground-mounted flag poles shall be allowed in residential coastal zoning districts to a maximum height of twenty-eight (28) feet and in nonresidential coastal zoning districts to a maximum height of thirty-five (35) feet.

   b. Flag poles mounted on tops of buildings located in nonresidential coastal zoning districts shall be allowed to exceed the maximum height limit by up to twenty (20) feet.

9. **Landmark Buildings.** An alteration or addition to a landmark building shall be exempt from height limits; provided, that structural alterations or additions that exceed the height of the existing structure shall require approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures) and shall not exceed a maximum of fifty-five (55) feet in height. The coastal development permit may be approved only if all of the following findings are first made in addition to those findings identified in Section 21.52.015 (F):

   a. The portion of the structural alteration or addition that exceeds the height of the existing structure does not significantly impact public views from public rights-of-way.

   b. The portion of the structural alteration or addition that exceeds the height of the existing structure will not be used in a manner that increases the intensity of the use of the landmark building.

   c. The allowed height of the landmark building will not be detrimental to the health, safety, peace, comfort, or general welfare of persons residing or working in the neighborhood of the landmark building.

10. **Light Standards.** Light standards may be allowed to exceed maximum height limits, subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures). All light fixtures and standards shall comply with the requirements of Section 21.30.070 (Outdoor Lighting).

11. **Mechanical Equipment.**

a. **Nonresidential Coastal Zoning Districts.** In nonresidential coastal zoning districts, roof-mounted mechanical equipment, totaling not more than thirty (30) percent of the total roof area, including required screening devices, shall be allowed to exceed the maximum height limit by up to five feet.

b. **Residential Coastal Zoning Districts.** In residential coastal zoning districts, roof-mounted equipment is not allowed to exceed the maximum height limit for the coastal zoning district.

12. **Solar Equipment.** The height limit regulations in this Implementation Plan do not apply to equipment and panels used for the production of solar energy.

13. **Skylights and Roof Windows.** Skylights or roof windows shall be allowed to exceed the maximum height limit by up to six inches on conforming roofs.

14. **Marina Park Lighthouse Feature.** A single, up to maximum seventy-three (73) foot tall faux lighthouse architectural tower, that creates an iconic landmark for the public to identify the site (1600 West Balboa Boulevard) from land and water as a boating safety feature, may be allowed. No further exceptions to the height limit shall be allowed, including but not limited to, exceptions for architectural features, solar equipment or flag poles. Any architectural tower that exceeds the thirty-five (35) foot height limit shall not include floor area above the thirty-five (35) foot height limit, but shall house screened communications or emergency equipment, and shall be sited and designed to reduce adverse visual impacts and be compatible with the character of the area by among other things, incorporating a tapered design with a maximum diameter of thirty-four (34) feet at the base of the tower. Public viewing opportunities shall be provided above the thirty-five (35) feet, as feasible.

15. **Lido House Hotel**. At the former City Hall 3300 Newport Boulevard and 475 32nd Street:

a. At least seventy-five (75) percent of the total area of the site shall be thirty-five (35) feet in height or lower.

b. Buildings and structures up to fifty-five (55) feet in height with the peaks of sloping roofs and elevator towers up to sixty (60) feet in height provided it is demonstrated that development does not adversely materially impact public views.

c. Architectural features such as domes, towers, cupolas, spires, and similar structures may be up to sixty-five (65) feet in height.

d. Buildings and structures over thirty-five (35) feet in height, including architectural features, shall not occupy more than twenty-five (25) percent of the total area of the site.

e. Buildings and structures over forty-five (45) feet in height, architectural features, shall not occupy more than fifteen (15) percent of the total area of the site.

f. With the exception of a fire station, all buildings and structures over thirty-five (35) feet in height, including architectural features, shall be setback a minimum of sixty (60) feet from the Newport Boulevard right-of-way and seventy (70) feet from the 32nd Street right-of-way.

g. A fire station may be located in its current location and may be up to forty (40) feet in height.

h. A fire station may include architectural features up to forty-five (45) feet in height to house and screen essential equipment.

21.30.065 – Signs

A. **Applicability.** This section provides regulations for roof top and freestanding signs.

B. **Prohibited Sign Types**. The following signs and sign types shall be prohibited throughout all coastal zoning districts of the City.

1. Pole signs.
2. Roof signs.

C. **Billboard Policy.** The City completely prohibits the construction, erection or use of billboards, other than those that legally exist in the City, or for which a valid permit has been issued and has not expired, as of the date on which this provision was first adopted.. Permits shall not be issued for billboards that violate this policy, and the City will take immediate abatement action against billboards constructed or maintained in violation of this policy. The Council affirmatively declares that it would have adopted this billboard policy even if it were the only provision in this chapter. The Council intends for this billboard policy to be severable and separately enforceable even if other provisions of this chapter may be declared, by a court of competent jurisdiction, to be unconstitutional, invalid, or unenforceable.

D. **Standards for Freestanding Signs**. Table 21.30-2 provides regulations for permanent freestanding signs.

Table 21.30-2 Freestanding Signs							
Sign Class	**Allowed Sign Types**	**Maximum Number**	**Maximum Sign Area**	**Maximum Sign Height**	**Location Requirements**	**Lighting Allowed**	**Additional Requirements**
RESIDENTIAL COASTAL ZONING DISTRICTS							
Identification sign Multi-unit uses	Ground sign	1 per multiunit use	12 sq. ft.		Near main entrance	Yes	Cabinet signs not allowed
Residential community identification signs	Ground	2 per primary entrance	40 sq. ft. total	6 ft.	At primary entrances to residential community	Indirect only	Cabinet signs not allowed
Signs for allowed nonresidential uses	Ground sign	1 per use	12 sq. ft.		Near main entrance	Yes	Cabinet signs not allowed
COMMERCIAL AND INDUSTRIAL COASTAL ZONING DISTRICTS							
On-site sign	**Freestanding signs.** Permitted on sites with minimum 50 ft. of frontage.	1 freestanding sign allowed per site. May be used in combination with other allowed building signs. Additional signs for sites with more than 300 linear feet of street frontage through the approval of a Comprehensive Sign Program.	1.0 sq. ft. of sign area per lineal foot of primary street frontage, 75 sq. ft. max. per sign	Not to exceed 20 ft. in height for pylon signs, or 8 ft. maximum height and 6 ft. maximum average height for monument signs.	Located on street frontage only. At least 15 feet from any building sign and 50 feet from any freestanding sign on an adjacent site.	Yes	
Business Directory. **Multi-tenant site.**	Ground sign	1 per multi-tenant site.	8 sq. ft. of sign area.	8 ft. maximum. 6 ft. maximum average.	Near main entrance and oriented to pedestrians.	No	
OS, PI, PR, AND PF COASTAL ZONING DISTRICTS							
On-site sign.	**Freestanding signs.** Permitted on sites with minimum 50 ft. of frontage.	1 freestanding monument sign allowed per site. May be used in combination with other allowed building signs. Additional signs for sites with more than 300 linear feet of street frontage through the approval of a Comprehensive Sign Program.	1.0 sq. ft. of sign area per lineal foot of primary street frontage, 75 sq. ft. max. per sign	8 ft.	Located on street frontage only. At least 15 feet from any building sign and 50 feet from any freestanding sign on an adjacent site.	Yes	
Directory sign.	Ground sign.	1 per multi-tenant site.	8 sq. ft. of sign area.	8 ft. maximum. 6 ft. maximum average.	Near main entrance and oriented to pedestrians.	No	

E. **Removal of Nonconforming Signs.** The nonconforming roof and ~~pool~~ **pole** signs shall be removed or altered to be conforming by October 27, 2020, with the exception of signs

designated as heritage signs.

21.30.070 – Outdoor Lighting

This section establishes outdoor lighting standards in order to reduce the impacts of glare, light trespass, overlighting, sky glow, and poorly shielded or inappropriately directed lighting fixtures, and promote safety and encourage energy conservation.

A. **General Outdoor Lighting Standards.**

1. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, ~~or~~ roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.

2. Flashing, revolving, or intermittent exterior lighting visible from any property line or street shall be prohibited, except if approved as an accessory feature on a temporary basis in conjunction with a special event.

3. A photometric study may be required as part of an application for a coastal development permit if it is determined that there is potential for a negative impact to surrounding land uses or sensitive habitat areas.

4. If in the opinion of the Director existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

B. **Light Standards within Parking Lots.** Light standards within parking lots shall be the minimum height required to effectively illuminate the parking area and eliminate spillover of light and glare onto adjoining properties and roadways. To accomplish this, a greater number of shorter light standards may be required as opposed to a lesser number of taller standards.

C. **Outdoor Lighting Standards for Buildings, Statues, Other Manmade Objects, and Landscapes.** Spotlighting or floodlighting used to illuminate buildings, statues, signs, or any other objects mounted on a pole, pedestal, or platform or used to accentuate landscaping shall consist of full cut-off or directionally shielded lighting fixtures that are aimed and controlled so that the directed light shall be substantially confined to the object intended to be illuminated to minimize glare, sky glow, and light trespass. The beam width shall not be wider than that needed to light the feature with minimum spillover. The lighting shall not shine directly into the window of a residence or directly into a roadway. Light fixtures attached to a building shall be directed downward.

D. **Environmentally Sensitive Habitat Areas**. See Section 20.30B.030 (E) (5).

21.30.075 – Landscaping

A. **Applicability.** This section applies to ~~coastal~~ development ~~permit applications for nonresidential projects and multi-unit residential projects and single-unit and two-unit~~

~~residential projects~~ adjacent to or containing a beach, wetland, or sand dune, coastal bluff, coastal canyon, or within 50 feet of the edge of a coastal bluff or stream, or in an environmentally sensitive habitat area shall provide landscaping in compliance with this section.

B. **General Landscape Standards.**

1. **Impervious Surfaces in R-1 and R-2 Coastal Zoning Districts.**

   a. Impervious surface areas, excluding driveways, shall not exceed fifty (50) percent of the front yard area with the remaining area landscaped with plant material. The use of pervious materials for walkways, porches, and outdoor living areas is allowed.

   b. Where the typical neighborhood pattern of front yards has been developed with hardscaped outdoor living areas that exceed the fifty (50) percent maximum for impervious surfaces the Director may waive this requirement.

2. **Safety Requirements.** Landscape materials shall be located so that at maturity they do not:

   a. Interfere with safe sight distances for vehicular, bicycle, or pedestrian traffic in compliance with Section 21.30.130 (Traffic Safety Visibility Area);

   b. Conflict with overhead utility lines, overhead lights, or walkway lights; or

   c. Block roadways, pedestrian access, or bicycle ways.

3. **Plant Selection and Grouping.** Plant materials appropriate to habitat type shall be selected for low water demand and drought tolerance; adaptability and relationship to the Newport Beach environment, and the geological and topographical conditions of the site; color, form, and pattern; ability to provide shade; and soil retention capability.

   a. **Drought Tolerant Species.** Landscape designs shall emphasize the use of drought tolerant plant species (xeriscape).

   b. **Invasive Plant Species.** Invasive plants are generally those identified by the California Invasive Plant Council and California Native Plant Society in their publications. Established invasive species shall be removed and ~~T~~the planting of invasive species shall be prohibited in the following areas:

      i. Environmentally Sensitive Habitat Areas (ESHA) and ESHA buffer areas.

      ii. Fuel modification ~~areas~~ zones abutting an ESHA and sites where a biological survey has identified significant natural habitat.

      ii. Natural habitat and non-urbanized areas

iv. Within fifty (50) feet of a designated environmentally sensitive habitat area.

c. **Dune Habitats.** Plant materials in southern coastal foredune and southern dune scrub habitat areas shall be restricted to native plant species.

d. **ESHA Buffers.** See Chapter 21.30B (Environmentally Sensitive Areas).

e. **Deciduous Trees.** Landscape designs shall maximize the use of deciduous trees.

f. **Grouping of Plants.** Plants having similar water use requirements shall be grouped together in distinct hydrozones.

4. **Maintenance.**

a. Landscape materials and landscaped areas shall be maintained in compliance with an approved landscape plan.

b. Landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming.

c. Landscaped areas shall be kept free of weeds, debris, and other undesirable materials.

d. Irrigation systems shall be kept in good operating condition, including adjustments, replacements, repairs, and cleaning as part of regular maintenance. Adjustments to eliminate overspray or runoff shall be made on a regular basis.

e. The non-native and invasive ornamental plant species shall be removed in areas where such materials are restricted or prohibited by subsection (~~2~~3)(~~e~~b) of this Section.

f. Landscape materials and landscaped areas shall be maintained to minimize impacts to public viewsheds to the greatest extent feasible.

C. **Water Waste Prohibited.** Water waste resulting from an inefficient irrigation system leading to excessive runoff, low head drainage, overspray, and other similar conditions where water flows onto adjacent property, nonirrigated areas, walks, roadways, or structures is prohibited. Use of recycled/reclaimed water for irrigation instead of potable water is encouraged.

D. **Fuel Modification.** See Section 21.30.015 (E)(8)~~This subsection provides standards for development within and adjacent to wildland fire hazard areas.~~

~~1. **New Development.** New development within or adjacent to areas of high and moderate fire susceptibility shall be located and designed to avoid the need to extend fuel modification zones into an ESHA.~~

~~2. **Sensitive Habitat Areas.** Fuel modification zones in buffer zones abutting an ESHA shall consist of fire-resistive, native plant species from the City-approved plant list.~~

~~3. **Invasive Plants Prohibited.** Invasive ornamental plant species shall be prohibited in fuel modification zones abutting an ESHA and sites where a biological survey has identified significant natural habitat.~~

21.30.085 – Water Efficient Landscaping

A. **Applicability.** All planting, irrigation, and landscape-related improvements required by this section shall apply to the following:

1. New landscape installations with a landscaped area equal to or greater than five hundred (500) square feet or which otherwise require a ministerial permit for a landscape or water feature;

2. Landscape rehabilitation projects by with a landscaped area equal to or greater than two thousand five hundred (2,500) square feet or which otherwise require a ministerial permit for a landscape or water feature;

B. **Exceptions**. This section does not apply to:

1. Landscape rehabilitation projects that consist of replacement plantings with equal or lower water needs and the irrigation system is designed, operable and programmed to comply with the City's water conservation regulations;

2. Registered local, State, or Federal historical sites;

3. Ecological restoration projects that do not require a permanent irrigation system;

4. Existing plant collections, as part of botanical gardens and arboretums open to the public; or

5. Landscape in hazard reduction and fuel modification zones, where applicable.

C. **Landscape Water Use Standards.** For new landscape installation or rehabilitation projects subject to subsection (A), the estimated applied water use allowed for the landscaped area shall not exceed the Maximum Applied Water Allowance (MAWA) calculated using an evapotranspiration (ET) adjustment factor of 0.7, except for special landscaped areas where the MAWA is calculated using an ET adjustment factor of 1.0; or the design of the landscaped area shall otherwise be shown to be equivalently water efficient in a manner acceptable to the City.

D. **Plant Selection.** Plant materials shall be selected for low water demand and drought tolerance. The planting of invasive species shall be prohibited. Invasive plants are generally those identified by the California Invasive Plant Council and the California Native Plant Society in their publications.

21.30.100 – Scenic and Visual Quality Protection

A. **Purpose.** The purpose of this section is to insure that development shall be sited and designed to protect and, where feasible, enhance the scenic and visual qualities of the Coastal Zone, including public views to and along the ocean, bay, and harbor and to coastal bluffs and other scenic coastal areas.

B. **Initial Evaluation.** Any coastal development permit application for development involving the construction of a new building or the expansion of an existing building and having one or more of the characteristics listed below, shall be reviewed to evaluate the development's impact to a public viewshed or the scenic and visual qualities of the Coastal Zone.

1. The ~~project~~ development site is located between the first public roadway paralleling ocean, bay, harbor, channels, estuary, marsh, or slough.

2. The ~~project~~ development site is located on a coastal bluff or canyon.

3. The ~~project~~ development site is adjacent to, or within the viewshed of, a public view point, coastal view road, public park or beach, or public accessway, as identified on Coastal Land Use Plan Map 4-3 (Coastal Views).

4. The ~~project~~ development site contains significant natural landforms or natural vegetation.

C. **Visual Impact Analysis.** Where the initial evaluation indicates that a proposed development has the potential to significantly impact a public view or viewshed or the scenic and visual qualities of the Coastal Zone, a view impact analysis~~ may be required by the Department. The view impact analysis~~ shall be prepared at the project proponent's expense. The analysis shall include recommendations to avoid or minimize impacts to public views from the identified public view points and corridors identified in Policy 4.4.1-6 and Map 4-3 of the Coastal Land Use Plan~~while allowing the project to proceed while maintaining development rights~~.

D. **Siting and Design.** ~~Projects~~Development shall be sited and designed in accordance with the following principles, ~~as appropriate~~where applicable in order to meet the purpose of section:

1. Avoid or ~~M~~minimize impacts to public coastal views and, where feasible, restore and enhance the scenic and visual qualities of the Coastal Zone.

2. Development on the edges of public coastal view corridors, including those down public streets, shall be designed and sited, to frame and accent public coastal views.

3. Clustering of buildings to provide open view and access corridors to the Harbor.

4. Modulation of building volume and mass.

5. Variation of building heights.

6. Inclusion of porticoes, arcades, windows, and other “see-through” elements in addition to the defined open corridor.

7. Minimization of landscape, fencing, parked cars, and other nonstructural elements that block views and access to the Harbor.

8. Prevention of the appearance of the harbor being walled off from the public right-of-way.

9. Inclusion of setbacks that in combination with setbacks on adjoining parcels cumulatively form functional view corridors.

10. Encourage adjoining property owners to combine their view corridors to achieve a larger cumulative corridor than would be achieved independently.

11. Where feasible, development along coastal view roads shall prevent an appearance of the public right-of-way being walled off from the public viewsheds.

E. **Landform Alteration.** Development shall be sited and designed to minimize the alteration of gullies, ravines, rock outcroppings, and other natural landforms and the removal of native vegetation. Site design and construction techniques include, but not limited to the following:

1. Siting development on the flattest area of the site, except when an alternative location is more protective of coastal resources.

2. Utilizing existing driveways and building pads to the maximum extent feasible.

3. Clustering building sites.

4. Shared use of driveways.

5. Designing buildings to conform to the natural contours of the site, and arranging driveways and patio areas to be compatible with the slopes and building design.

6. Utilizing special foundations, such as stepped, split level, or cantilever designs.

7. Detaching parts of the development, such as a garage from a dwelling unit.

8. Requiring any altered slopes to blend into the natural contours of the site.

F. **Landscape Standards.** Landscape improvements shall be installed and maintained to ensure that landscape materials do not unnecessarily obstruct public views at maturity. Landscaping at the edges of roads from which there is an identified public view should be designed, planted and maintained to frame and accent public views.

G. **Utilities.** New utility connections and appurtenant and associated utility equipment for proposed new development shall be sited and designed to minimize visual impacts to scenic and visual qualities of the Coastal Zone and placed underground, unless the Public Works Director determines that undergrounding is physically infeasible. New major

utilities shall be sited and designed to protect public views to and along the ocean and scenic coastal areas and to be visually compatible with the character of surrounding areas.

H. **Other Development Features.** Freestanding signs, rooftop equipment, antennas, wireless telecommunication facilities, and other project features shall be sited and designed to ensure they minimize impacts to public views.

I. **View Protection Easement.** The review authority ~~may~~ shall require applicants to provide public view protection through deed restriction and/or public view protection easements ~~to protect public views~~.

21.30.105 – Cultural Resource Protection

A. **Archaeological/Paleontological Resources.**

1. **~~1. Applicability~~Purpose and Intent.** The purpose and intent of this regulation is to ensure that archaeological/paleontological cultural resources are afforded protection on sites known to contain or are suspected of containing archaeological/paleontological cultural resources. This regulation provides for the determination of the nature and extent of on-site archaeological/paleontological cultural resources during the early stages of planning for the development of the site, thereby allowing for a full range of mitigation options. Accordingly, development sites with known or high potential for the presence of archaeological/paleontological cultural resources are required to be analyzed through a comprehensive archaeological research plan (ARP) and implemented through a coastal development permit, prior to consideration of a permit to develop the site. By this process, the ARP is then used to guide any subsequent development of a site. The ARP, when properly designed and reviewed by qualified archaeologists, along with consultation with Native American groups with ancestral ties to the area can establish whether the site was used in prehistoric times by Native Americans, determine whether evidence of that use remains and provide for the in situ preservation of intact significant resources and other mitigation options to otherwise protect significant cultural resources on site. The regulation also provides procedures for archaeological and Native American monitoring of grading and other activities during project development in order to ensure that any newly discovered cultural resources are protected.

2. **Applicability.** The requirements in this subsection of this section shall apply to all coastal development permit applications that involve grading, or excavation, or other development activity that may impact archaeological/paleontological cultural resources and that have one or more of the following characteristics:

   a. Projects located within 300 feet of an identified paleontological/archaeological site in the Coastal Resources Information Center database of California State Fullerton, where archaeological/paleontological cultural resources cultural resources are reasonably suspected to be present or areas identified by or otherwise known to the City as having potential paleontological/archaeological sites.

   b. Where evidence of potentially significant paleontological/archaeological resources is found in an initial study conducted pursuant to the California Environmental Quality Act (CEQA).

3. **Procedures.** All applicable projects shall comply with the following procedures:

a. **~~Report Required~~ Preparation and Implementation of an Archaeological Research Plan (ARP).**

(1) **When ~~Report~~ an ARP is Required.** When a development is proposed in an area where there are known or has potential for archaeological or paleontological resources on the site ~~or in the vicinity, and for which the Director determines no adequate prior assessment of on-site resources has been completed, a report~~ an Archaeological Research Plan (ARP) shall be prepared by a qualified archaeologist/paleontologist and implemented through a coastal development permit before the ~~issuance~~ submittal of a coastal development permit for the proposed development of the site. The purpose of the ARP is to determine whether or not significant cultural resources are present, determine the boundaries of cultural resources, and provide measures that result in the avoidance and**/or** minimization of impact to archaeological or paleontological cultural resources present on the site. A coastal development permit is required to implement an ARP since such implementation involves development (e.g., excavating shovel test pits, trenching, etc.) that has the potential to result in significant impacts to known or suspected on site cultural resources.

Subsequent development of the site shall be subject to approval of a coastal development permit and shall be guided by the results of the approved ARP.

(2) **Elements of ~~Report~~ the ARP.** At a minimum, the ~~report~~ ARP shall:

include a statement of the qualifications of the preparer~~,~~ and shall be prepared in accordance with current professional practice, in consultation with appropriate Native American groups as identified by the Native American Heritage Commission (NAHC), and be reviewed by at least three archaeologists (peer review committee), NAHC, and the State Historic Preservation Officer. The peer review committee shall be convened in accordance with current professional practice and shall be comprised of qualified archaeologists;

(b) be designed and carried out with the goal of determining the extent of on-site cultural resources and shall include, but not be limited to, postulation of a site theory regarding the archaeological/paleontological cultural history and pre-history of the site, the types and quantities of resources expected to be encountered, identification of their significance (which shall not be limited to whether any site is eligible for listing in the National or State Register of Historic Places), the potential impacts of

development to those resources, investigation methods to be implemented in order to locate and identify, in the least destructive manner, all archaeological/paleontological cultural resources on site.

(c) include a Mitigation Plan taking into considertion the archaeological/cultural resources discovered as a result of the investigation and shall be based on a full range of mitigation options including avoidance of impact to significant resources, measures designed to reduce or eliminate those impacts, including maintaining significant intact cultural resources "in situ.".

(d) also include recommendations for monitoring and mitigation during any approved subsequent grading or other development activity in order to avoid impacts to additional archaeological/cultural resources should they be discovered.

The approved ARP, prepared as specified above, shall be fully implemented prior to submittal of a coastal development permit application for subsequent grading or development of the site.

~~a. a statement of the types and quantities of resources expected to be encountered, identification of their significance, the impacts of the development on those resources, and mitigation measures designed to reduce or eliminate those impacts~~

~~(3) **Notice.** Cultural organizations, including Native American organizations, shall be notified of proposed developments that have the potential to adversely impact cultural resources.~~

b. ~~**Monitor Required**~~**Subsequent Monitoring and Mitigation Plan to be Implemented in Conjunction with Approval of a Coastal Development Permit for Project Grading and Construction Activities.**

(1) ~~Where~~ Even after implementation of an approved ARP, prepared in accordance with the above provisions. ~~there is potential for proposed development activity to adversely affect archaeological/paleontological resources, a qualified paleontologist/archeologist shall monitor all grading and/or excavation activities.~~ Therefore, a coastal development permit application for any subsequent development at the site shall include the submittal of evidence that the approved ARP, including all mitigation, has been fully implemented. Further, the coastal development permit for subsequent development of the site shall include the requirement for the submittal of a Monitoring and Mitigation Plan to be implemented during any site grading, utility trenching or any other development activity that has the potential to uncover or otherwise disturb archaeological/cultural resources and shall provide for appropriate mitigation measures for any additional resources that

are found. The elements of the Monitoring and Mitigation Plan shall be consistent with section 2 (a) above and specify that sufficient archaeological and Native American monitors must be provided to assure that all activity that has the potential to uncover or otherwise disturb cultural deposits will be monitored at all times while those activities are occurring. The Monitoring Plan shall be on-going until grading activities have reached sterile soil. The plan shall include at a minimum:

(a) Procedures for selecting archaeological monitor(s) qualified by the California Office of Historic Preservation (OHP) standards, and Native American monitor(s) with documented ancestral ties to the area, and well as the Native American most likely descendant (MLD), when State law mandates indentification of a MLD, appointed consistent with the standards of the Native American Heritage Commission (NAHC), to monitor all grading and/or excavation activities;

(b) Procedures that shall be followed should grading operations or excavations uncover paleontological/archaeological resources, including,

i. A requirement that all development activity within a minimum 50 feet of the discovery or a greater area to be determined by the archeologist or paleontologist shall be suspended and the Director shall be immediately notified of the discovery to avoid destruction of resources until a determination can be made as to the significance of the paleontological/archaeological resources;

ii A requirement that compliance with the applicable State and Federal laws shall occur upon the discovery of any human remains; and

iii. A requirement that a significance testing plan be undertaken to determine the significance of the discovery and the procedures to be followed to allow for recommencement of development following the significance determination, including the requirement for a supplemental archaeology plan if the resuorces are found to be significant.

(3) The Monitoring and Mitigation Plan shall include demonstration of a good faith effort to avoid impacts to the resources through measures including project redesign, in situ preservation/capping, and placing cultural resource areas in open space; if avoidance of the resource is not feasible, a recovery and/or relocation plan for mitigating the effect of the development shall be required.

c. **Monitoring by Cultural Organizations.** Qualified representatives of such cultural organizations also shall be allowed to monitor grading and/or excavation of development sites.

d. **Discovery of Resources.** If grading or excavation activities uncover archaeological/paleontological resources, the following procedures shall be followed:

i. The monitor shall suspend development activity to avoid destruction of resources until a determination can be made as to the significance of the archaeological/paleontological resources;

ii. The monitor shall immediately notify the Director of the discovery; and

iii. If the resource is found to be significant, the site(s) shall be preserved for a reasonable period of time, as determined by the monitor, to allow a recovery plan or preservation to be completed to ensure the protection of the resources.

e. **Mitigation Measures.** If resources are determined to be significant a mitigation plan shall be submitted to the Director for review and approval. The plan shall include:

i. Demonstration of a good faith effort to avoid impacts to the resources through measures including project redesign, in situ preservation/capping, recovery and/or relocation, and placing cultural resource areas in open space; if avoidance of the resource is not feasible, an in situ or site-capping preservation plan or a recovery plan for mitigating the effect of the development shall be required.

ii. A monitoring plan that:

(1) Describes procedures for selecting a qualified archaeologist/paleontologist, and a Native American monitor if necessary, to monitor all grading and/or excavation activities;

(2) Identifies monitoring methods; and

(3) Describes procedures that shall be followed if additional or unexpected archaeological/paleontological resources are discovered during development of the site. Procedures may include provisions for cessation of all grading and construction activities in the area of the discovery that has any potential to uncover or otherwise disturb cultural deposits in the area of the discovery and all construction that may foreclose mitigation options to allow for significance testing, additional investigation, and mitigation.

B. Historical and Architectural Resources.

1. **Applicability.** The requirements in this subsection of this section shall apply to all coastal development permit applications involving the expansion, reconstruction, structural alteration, or demolition of structures or sites having one or more of the characteristics listed below:

    a. A site listed, or containing a building, monument, object, or structure that is listed, on the:

        i. Newport Beach Register of Historical Property;

        ii. California Register of Historical Resources; or

        iii. National Register of Historic Places.

    b. A site where evidence of potentially significant historical resources is found in an initial study conducted in compliance with the California Environmental Quality Act (CEQA) (Public Resources Code Sections 21000 et seq.).

2. **Initial Evaluation.** An application for approval of any project or development activity involving a historic resource identified in Subsection A, above, shall be reviewed to determine whether the project may have a substantial adverse impact as defined by the California Environmental Quality Act (CEQA), on an historical resource.

3. **Site-Specific Study.** If the initial evaluation indicates that the proposed development may result in significant impacts to historical resources, the Director shall have the authority to require a site-specific study to be performed by a qualified professional. The study shall describe the significance of the resources; discuss the possible adverse impacts; and identify mitigation measures designed to reduce or eliminate those impacts.

4. **Rehabilitation Incentives.** The following incentives may be available to owners of historic properties identified in Subsection (A)(1) (Applicability), above:

    a. To promote adaptive reuse, the State Historic Building Code may be applied to buildings or structures; and

    b. The Commission may grant reductions or waivers of City application fees, City permit fees, and/or any liens placed by the City on properties listed in the Newport Beach Register of Historical Property in exchange for preservation easements.

5. **Offer for Relocation of Historic Structure.** Before issuance of a permit by the Building Director for the demolition of an historic structure the applicant shall first offer the structure for relocation by interested parties.

21.30.110 – Setback Regulations and Exceptions

This section establishes standards to ensure the provision of open areas around structures for: visibility and traffic safety; access to and around structures; access to natural light and ventilation;

separation of incompatible land uses; space for privacy, landscaping, and recreation; protection of natural resources; and safety from fire and geologic hazards.

A. **Setback Requirements.**

1. **Structures.**

a. **Principal Structures.** Principal structures shall conform with the setback requirements established for:

(1) Each coastal zoning district in Part 2 of this Implementation Plan (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards);

(2) Any specific uses identified in Part 4 of this Implementation Plan (Standards for Specific Land Uses);

(3) Any special setback areas established in Section 21.28.040 (Bluff (B) Overlay District) or Section 21.28.050 (Canyon (C) Overlay District); and

(4) Any other special setback areas established in this Implementation Plan.

b. **Accessory Structures.** All accessory structures shall comply with the setback requirements established for:

(1) Accessory structures in subsection (D)(2) of this section (Accessory Structures) and any allowed encroachments; ~~and~~

(2) Any specific uses identified in Part 4 of this Implementation Plan (Standards for Specific Land Uses);

(3) Any special setback areas established in Section 21.28.040 (Bluff (B) Overlay District) or Section 21.28.050 (Canyon (C) Overlay District); and

(~~2~~4) Any other special setback areas established in this Implementation Plan.

2. **Setback Areas to Be Open.** Each required setback area shall be open and unobstructed from the ground upward, except as provided in this section.

B. **Location and Measurement of Setbacks.** Setbacks shall be located and measured as follows:

1. **General.**

a. **Measure at Right Angles.** The distance/depth of a setback area (i.e., front, side, or rear) shall be measured at right angles from the nearest property line establishing a setback area line parallel to that property line.

b. **Future Street Right-of-Way.** Whenever a future street right-of-way line is officially established, required setback areas shall be measured at right angles from the established future right-of-way line(s).

2. **Front Setback Area.**

a. **General.** The front setback area shall extend across the entire width of the lot frontage.

b. **Corner Lots.** The front setback area for a corner lot shall be the required distance parallel to the shortest property line adjoining the street.

3. **Side Setback Area.** The side setback area shall be established by a line parallel with the side property line and extending between the front and rear setback areas.

4. **Street Side Setback Area.** The side setback area on the street side of a corner lot shall be established by a line parallel with the side property line adjoining the street and extending between the front and rear setback areas.

5. **Rear Setback Area.**

a. **General.** The rear setback area shall extend across the entire width of the rear of the lot.

b. **Irregularly Shaped Lots.** Where the side lot lines converge to a point at the rear of the lot and make an angle ninety (90) degrees or less, a line ten (10) feet long within the lot, parallel to and at a maximum distance from the front lot line, shall be deemed to be the rear lot line for the purpose of determining the depth of the required rear setback area. Where the angle created by the convergence of two side lot lines at the rear of the lot is greater than ninety (90) degrees, a line ten (10) feet long measured from the point of convergence and perpendicular to the front lot line shall establish the location of the required rear setback line. See Figure 3-4 (Rear Setback Areas on Irregularly Shaped Lots).

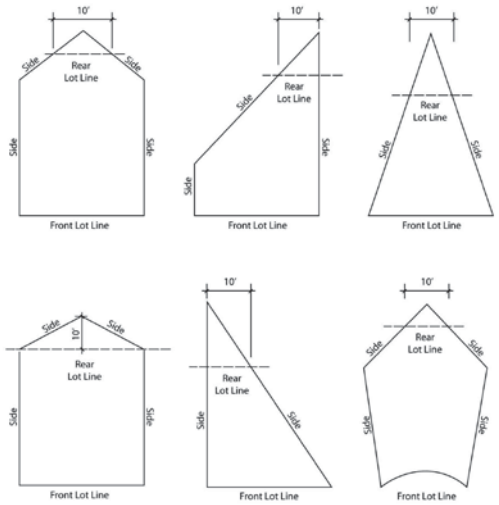


Figure 3-4
Rear Setback Areas on Irregularly Shaped Lots

C. **Alternative Setback Area Location.** In cases where the application of the setback area are not consistent with the character or general orientation of other lots in the vicinity, the Director may redefine the location of the front, side, and rear setback areas to be consistent with surrounding properties. The reorientation of setback areas is not applicable to the Bluff Overlay District and Canyon Overlay District.

D. **Allowed Encroachments into Setback Areas**. Encroachments into required setback areas are allowed in compliance with the standards in this subsection, except as provided in subsection (D)(1) of this section.

1. **General Regulations.**

a. **Setbacks on Setback Maps.** Notwithstanding any requirements in this section, all setback areas identified on the setback maps shall be regulated as front setback areas.

b. **Overlay Districts.** The encroachments allowed by this subsection shall not apply to designated bluff and canyon setback areas. Refer to Section 21.28.040 (Bluff (B) Overlay District and Section 21.28.050 (Canyon (C) Overlay District for) setback regulations and encroachments.

c. **Alleys.** No encroachments at the ground level are allowed within the required setback area of a lot abutting an alley. Rear setback areas abutting alleys shall be kept clear of obstructions.

d. **Waterfront Areas.** Allowed encroachments into required setback areas abutting or adjacent to the waterfront of Newport Bay, the shoreline of the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport shall not exceed a height of forty-two (42) inches above the existing grade.

e. **Traffic Safety Visibility Areas.** See Section 21.30.130 for restrictions on encroachments into traffic safety visibility areas.

2. **Accessory Structures.**

a. Accessory structures, including housings for mechanical equipment, not more than six feet in height and totaling no more than one hundred fifty (150) square feet per structure, may be located within a required side or rear setback area other than a rear setback area abutting an alley.

b. Arbors, trellises, and similar garden structures may be allowed to encroach into required front, side, and rear setback areas subject to the following limits:

(1) The maximum footprint of the structure shall not exceed sixteen (16) square feet; and

(2) The maximum height of the structure shall not exceed nine feet.

c. Display areas for new motor vehicles associated with an allowed vehicle sales facility may encroach into a required front or street side setback area, provided a setback of at least two feet is maintained from the street adjacent property line.

d. Fences, hedges, and walls may be established within required setback areas in compliance with the requirements of Section 21.30.040 (Fences, Hedges, Walls, and Retaining Walls).

e. Decks, landings, patios, platforms, porches, steps, and terraces, and similar structures not more than eighteen (18) inches in height measured from the existing grade may be located within a required side or rear setback area other than those abutting an alley.

3. **Architectural Features.**

a. Roof overhangs, brackets, cornices, and eaves may encroach up to thirty (30) inches into a required front, side, or rear setback area, including required third floor front or rear setbacks; provided, that no architectural feature shall project closer than twenty-four (24) inches from a side property line and a minimum vertical clearance of at least eight feet above grade is maintained.

b. Decorative architectural features (e.g., belt courses, ornamental moldings, pilasters, and similar features) may encroach up to six inches into a required setback area.

4. **Awnings and Canopies.** Awnings and canopies may encroach into required setback areas up to a maximum of five feet subject to the following limits.

a. **Residential Districts.**

(1) Front: one-half the depth of the required front setback area.

(2) Side: Zero feet, except over doors up to twenty-four (24) inches from property line, maximum width shall not exceed the standard width of a door plus twelve (12) inches.

(3) Rear: two and one-half feet.

(4) Vertical clearance: six and one-half feet above grade.

b. **Nonresidential Districts, Including Mixed-Use Districts.**

(1) Front: one-half the depth of the required front setback area.

(2) Side: two feet.

(3) Rear: one-half the depth of the required rear setback area.

(4) Vertical clearance: eight feet above grade.

5. **Balconies Abutting East Ocean Front and West Ocean Front.**

a. Balconies may encroach up to a maximum of thirty-six (36) inches into a required front setback area along East Ocean Front and West Ocean Front. Balcony railings shall not exceed a maximum height of forty-two (42) inches and shall be constructed of either transparent material (except for supports) or opaque material (e.g., decorative grillwork, wrought iron, latticework, or similar open materials) so that at least forty (40) percent of the railing is open.

b. Balconies shall be cantilevered so that no underlying support is necessary. Roofs over balconies shall not be allowed to encroach into required front setback areas except as provided in subsection (D)(3) of this section (Architectural Features).

6. **Bay Windows and Greenhouse Windows.** Bay windows and greenhouse windows shall be allowed to encroach into required setback areas subject to the following limits:

a. No more than two bay windows or greenhouse windows shall be allowed to encroach into any one setback area;

b. Bay windows and greenhouse windows shall not exceed eight feet in width or ten (10) feet in height within the area of encroachment;

c. Bay windows and greenhouse windows shall be cantilevered and shall be designed to preclude use as a door or entry;

d. The exterior bottom surface of a bay window or greenhouse window shall be elevated a minimum of eighteen (18) inches above the adjacent finished interior floor surface at the required building setback line;

e. Encroachments into required setback areas shall be limited as follows:

TABLE 21.30-3
BAY AND GREENHOUSE WINDOW ENCROACHMENTS

Standard	Allowed Encroachment	Additional Regulations
Front setback (4 ft. to less than 10 ft.):	16 in.	
Front setback (10 ft. or more):	2 ft.	
Side setback:	2 ft.	Limited to first floor only. The encroachment shall be at least twenty-four (24) inches from the side property line.
Rear setback:	2 ft.	Not allowed when the rear property line abuts an alley.
Distance between detached structures:	2 ft.	

7. **Fireplaces, Barbecues, and Chimneys—Attached.**

a. **Front and Rear Setback Area.** Fireplaces, barbecues, and chimneys attached to the principal structure that are less than nine feet in width may encroach up to two feet into a required front or rear setback area that is ten (10) feet or greater in depth.

b. **Side Setback Area.** Fireplaces and chimneys attached to the principal structure that are less than nine feet in width may encroach up to thirty (30) inches into a required side setback area; provided, that the encroachment shall be at least twenty-four (24) inches from the side property line.

8. **Fireplaces and Barbecues—Freestanding.**

a. **Front Setback Area.** Freestanding fireplaces (gas only) and barbecues with a maximum height of forty-two (42) inches (not including the barbecue hood) shall be allowed to encroach into the required front setback area, provided the total length of the barbecue and counter does not exceed six feet.

b. **Side and Rear Setback Area.** Freestanding fireplaces (gas only) and barbecues with a maximum height of six feet shall be allowed to encroach into the required side or rear setback area, provided a minimum thirty-six (36) inch clear path of travel is maintained adjacent to any habitable structures.

9. **Garages and Carports for Duplexes.** Where three parking spaces are located in garages or carports across the rear of a lot that is less than thirty (30) feet ten

(10) inches wide, one garage/carport wall or support may encroach into the side setback area subject to the following:

a. **Distance to Property Line.** The distance from the garage wall or carport support to the nearest side property line shall be not less than twenty-six (26) inches plus the amount that the width of the lot exceeds thirty (30) feet. The other side setback area shall have a clear passageway a minimum of thirty-six (36) inches wide, clear of any obstructions; and

b. **Width of Garage/Carport.** The width of each garage/carport shall not be greater than the minimum required by Section 21.40.070 (Development Standards for Parking Areas).

10. **Basement Walls.** Basement walls that are located completely below grade may encroach into a required setback area up to twelve (12) inches.

11. **Light Standards.** In nonresidential coastal zoning districts, light standards used in conjunction with the illumination of parking lots and walkways shall be allowed to encroach into a required setback area, provided all of the requirements of Section 21.30.070 (Outdoor Lighting) are complied with.

12. **Protective Railing.** Protective railings around balconies and windows required by The California Building Code may encroach up to six inches into a required setback area.

13. **Second Stories Abutting Alleys.** In residential districts having alleys to the rear of the lot or development site, a second story may be allowed to encroach into the required setback area subject to the following conditions and exclusions:

a. Encroachments shall not extend closer than seven and one-half feet to the center of any alley;

b. Encroachments shall not extend closer than two and one-half feet to the rear property line;

c. That portion of the building that encroaches into the required rear setback area shall have a minimum ground clearance of eight feet;

d. No encroachment shall be allowed on lots having a depth exceeding eighty-five (85) feet; and

e. No encroachment shall be allowed on corner lots located at the intersection of two ten (10) foot wide alleys.

14. **Shoring.** Permanent or temporary shoring may encroach into a required setback area, provided it is located completely below finished grade and at least twelve (12) inches from any property line.

15. **Swimming Pools/Spas.** Swimming pools, spas, and other similar devices/equipment that are placed directly upon the existing grade and are less

than forty-two (42) inches in height may be located within a required front, side, or rear setback area other than those abutting an alley.

21.30.130 – Traffic Safety Visibility Area

A. **Visibility at Corners of Intersections Required.** Corner lots in all coastal zoning districts shall be developed in a manner that ensures visibility across the corners of the intersecting streets, alleys, and private driveways.

B. **Traffic Safety Visibility Area Described.** The traffic safety visibility area shall be described as a triangular-shaped area on a corner lot formed by measuring the prescribed distance from the intersection of the front and street side property lines, an intersecting alley, or an intersecting driveway and connecting the lines diagonally across the property making a triangular area. See Figure 3-5.

C. **Area of Traffic Safety Visibility Area.** The dimensions of a traffic safety visibility triangle shall be as follows and shall be subject to further review and approval of the City Traffic Engineer:

1. Standard intersection line of sight requirements shall apply at the intersection of public or private two street rights-of-way and at the intersections of commercial driveways and streets;

2. Fifteen (15) feet from the intersection of a public or private street right-of-way and an alley;

3. Ten (10) feet from the intersection of two alleys. See subsection (E) of this section; and

4. Five feet from the corner of an intersecting street right-of-way and a driveway.

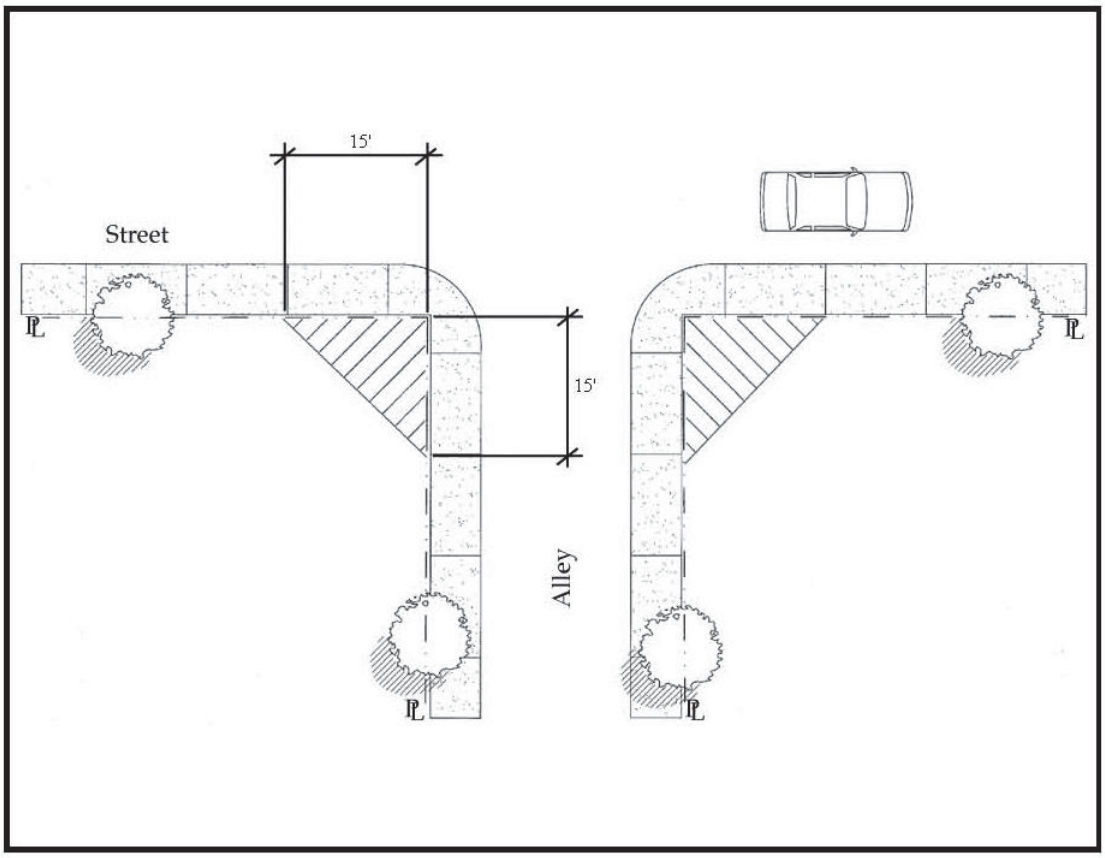


Figure 3-5

Traffic Safety Visibility Area

D. **Height Limit.** The following height limit requirements shall apply within a traffic safety visibility area;

1. Fences, walls, signs, accessory structures, mounds of earth, or other visual obstructions shall not extend above thirty (30) inches in height as measured from adjacent finished grade;

2. Hedges, shrubbery, and vegetation shall be maintained to a height of twenty-four (24) inches or less as measured from adjacent finished grade;

3. Only trees with single trunks are allowed and tree canopies shall be maintained at a minimum height of seven feet above ground level, as measured from adjacent street curb elevation.

E. **Exemptions to Traffic Safety Visibility Height Limit.**

1. **Alleys.** No above-ground improvements (e.g., fences, walls, accessory structures, mounds of earth, vegetation and similar items) shall be allowed within the traffic safety visibility area required at the intersection of two alleys.

2. **City Traffic Engineer Approval.** Improvements, structures, or vegetation that exceed the allowed height limit for visibility in the traffic safety visibility area may be approved by the City Traffic Engineer if it is determined that the location and/or height of the existing or proposed hedge, shrubbery, structure, or other obstruction allows for the unobstructed view of oncoming traffic, bicyclists, and pedestrians by a driver approaching an intersection including those with private driveways.

~~**21.30.135 – Water Quality Control**~~

~~A. **BMP Requirements**. Best management practices (BMPs) shall be incorporated into the project design in the following progression:~~

~~1. Site Design BMPs.~~

~~2. Source Control BMPs.~~

~~3. Treatment Control BMPs.~~

~~Site design and source control BMPs shall be required in all developments. When the combination of site design and source control BMPs are not sufficient to protect water quality as required by the Local Coastal Program or Coastal Act, structural treatment BMPs will be implemented along with site design and source control measures.~~

~~B. **Construction Phase – SWPPP.** A storm water pollution prevention plan (SWPPP) shall be required for all development requiring a coastal development permit pursuant to the Water Quality Ordinance. The SWPPP shall identify best management practices (BMPs) that will be used during the construction of the project to reduce the impacts to storm water quality relating to material and waste management.~~

~~C. **Post Construction – WQMP.** A water quality management plan (WQMP) shall be required for all development requiring a coastal development permit pursuant to the Water Quality Ordinance. The WQMP shall identify best management practices (BMPs) that will be used to minimize to the maximum extent practicable dry weather runoff and runoff from small storms (less than 0.75 inch of rain falling over a 24-hour period) from the property.~~

~~D. **Design and Siting.**~~

~~1. Development shall be sited on the most suitable portion of the site and designed to ensure the protection and preservation of natural and sensitive site resources by providing for the following:~~

~~a. Protecting areas that provide important water quality benefits, areas necessary to maintain riparian and aquatic biota and/or that are susceptible to erosion and sediment loss;~~

~~b. Analyzing the natural resources and hazardous constraints of planning areas and individual development sites to determine locations most suitable for development;~~

~~c. Preserving and protecting riparian corridors, wetlands, and buffer zones;~~

d. Minimizing disturbance of natural areas, including vegetation, significant trees, native vegetation, and root structures;

e. Ensuring adequate setbacks from creeks, wetlands, and other environmentally sensitive habitat areas;

f. Promoting clustering of development on the most suitable portions of a site by taking into account geologic constraints, sensitive resources, and natural drainage features

g. Utilizing design features that meet water quality goals established in site design policies.

2. To the maximum extent feasible, development shall preserve, or where feasible, restore natural hydrologic conditions such that downstream erosion, natural sedimentation rates, surface flow, and groundwater recharge function near natural equilibrium states. Design and siting practices include, but are not limited to, the following:

a. Limiting the use of curb drains to avoid conveying runoff directly to the City's street drainage system without the benefit of absorption by permeable surfaces and natural treatments such as landscaped areas and planters.

b. Minimizing the creation of and increases in impervious surfaces, especially directly connected impervious areas.

c. Requiring redevelopment to increase area of pervious surfaces, where feasible.

d. Protecting the absorption, purification, and retention functions of natural drainage systems that exist on the site.

e. Designing drainage and project plans to complement and utilize existing drainage patterns and systems

f. Conveying drainage from the developed area of the site in a non-erosive manner.

g. Restoring disturbed or degraded natural drainage systems, where feasible.

3. To the maximum extent feasible, development shall minimize adverse effects of waste water discharges and control runoff. Design and siting practices include, but are not limited to, the following:

a. Retaining runoff on private property to prevent the transport of bacteria, pesticides, fertilizers, pet waste, oil, engine coolant, gasoline, hydrocarbons, brake dust, tire residue, and other pollutants into recreational waters.

~~b. Diverting runoff through planted areas or sumps that recharge the groundwater dry wells and use the natural filtration properties of the earth to prevent the transport of harmful materials directly into receiving waters.~~

~~c. Requiring beachfront and waterfront development to incorporate BMPs designed to prevent or minimize polluted runoff to beach and coastal waters.~~

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.30A – Public Access and Recreation

Sections:

21.30A.010 Purpose
21.30A.020 Applicability ~~and Exemptions~~
21.30A.030 Protection and Provision of Public Access Required
21.30A.040 Determination of Public Access/Recreation Impacts
21.30A.050 Development Standards
21.30A.060 Access Title and Guarantee
21.30A.070 Reserved~~Coastal Commission Review of Recorded Access Documents~~
21.30A.080 Timing of Access Requirements
21.30A.090 Management and Maintenance
21.30A.100 Encroachments into Public Rights-of-way and Accessways

21.30A.010 – Purpose

This Chapter provides procedures and standards for the preservation, dedication, and improvement of public access to, and along the shoreline and coastal blufftops, in conjunction with development in the Coastal Zone. The intent is to ensure that public rights of access to the shoreline are protected as guaranteed by the California Constitution , and achieve the basic state goals of maximizing public access to the coast and public recreational opportunities, as set forth in the Coastal Act (Sections 30000 through 30900); to implement the public access and recreation policies of Chapter 3 of the Coastal Act (Sections 30210-30255) and the applicable policies of the Coastal Land Use Plan; and where feasible, expanded and enhanced; to ensure public access to coastal blufftops. The public access procedures and standards of this Chapter shall be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution.

21.30A.020 – Applicability ~~and Exemptions~~

A. **Applicability.** This Chapter applies to all coastal development permit applications within the City's coastal zone. ~~on development sites located between the shoreline and the first public roadway paralleling the shoreline or on coastal bluffs.~~

B. **Development Between the Nearest Public Road and the Sea.** Every coastal development permit issued for any development between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone shall include a specific finding that the development is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act (see Section 21.52.015 (F).

~~B. **Exemptions.** The public access requirements of this Chapter shall not apply to the following development in compliance with the Coastal Act (Public Resources Code Section 30212):~~

1. **Structure Destroyed By Disaster.** The replacement of a structure, other than a public works facility, destroyed by disaster, provided that the replacement structure:

   a. Conforms to applicable coastal zoning district requirements in Part 2 (Coastal Zoning Districts, Allowable Land Uses, and Coastal Zoning District Standards);

   b. Is for the same use as the destroyed structure;

   c. Does not exceed the floor area, height, or bulk (i.e., total interior cubic volume as measured from the exterior surface of the structure) of the destroyed structure by more than 10 percent;

   d. Is sited in the same location on the affected property as the destroyed structure.

2. **Demolition and Reconstruction.** The demolition and reconstruction of a single-unit or two-unit residence provided that the reconstructed residence:

   a. Does not exceed the floor area, height, or bulk (i.e., total interior cubic volume as measured from the exterior surface of the structure) of the destroyed structure by more than 10 percent; and

   b. Is sited in the same location on the affected property as the former structure.

3. **Improvements.** Improvements to a structure that do not:

   a. Change the intensity of its use;

   b. Increase either the floor area, height, or bulk of the structure by more than 10 percent;

   c. Block or impede existing access; and

   d. Result in a seaward encroachment by the structure.

4. **Repair and Maintenance of a Shoreline Protective Device**. The reconstruction or repair of a bulkhead; provided that the reconstructed or repaired bulkhead is not seaward of the location of the former bulkhead.

5. **Repair and Maintenance.** A repair or maintenance activity consistent with Public Resources Code Section 30212.b (5).

21.30A.030 – Protection and Provision of Public Access Required

A. **General.** Maximum access, shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs, and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

~~A~~B. **~~Protection of~~ Existing Public Access.**

1. Protection of Existing Public Access. Development shall not interfere with public right of access to the shoreline or coastal blufftops where the rights have been acquired through use or legislative authorization, including, but not limited to the public accessways identified in the Coastal Land Use Plan. Public access rights may include, but are not limited to, the use of dry sand and rocky beaches to the first line of terrestrial vegetation.

2. **Maximization of Existing Public Access.** Proposed new development shall be encouraged to provide new and to improve, expand or enhance existing public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails. Improvements or enhancements include, but are not limited to:

a. Expanding of hours of public use;

b. Widening existing public accessways to and along the shoreline to conform with current standards or as needed to accommodate present and foreseeable future demand;

c. Closing curb cutouts to create new on-street parking spaces;

d. Wayfinding signage, consistent with the standards contained in Appendix B, that encourages public use of the shoreline and recreational facilities; and

e. Prohibiting gates, guardhouses, barriers, or other structures where they would inhibit public access to and along the shoreline, beaches, coastal parks, trails, or coastal bluffs.

~~B~~C**. Provision of New Public Access.**

1. **Applicability.** New development projects shall provide public access from the nearest public roadway to the shoreline and along the coast, except where:

a. It is inconsistent with public safety, military security needs or the protection of fragile coastal resources; or

b. Adequate access exists nearby, or

c. Agriculture would be adversely affected.

2. **New Development Defined.** For purposes of this subsection, "new development" does not include:

a. **Single-Unit and Two-Unit Development.** The demolition and reconstruction of a single-unit or two-unit residence provided that the reconstructed residence:

(1) Does not exceed the floor area, height, or bulk (i.e., total interior cubic volume as measured from the exterior surface of the structure) of the destroyed structure by more than 10 percent; and

(2) Is sited in the same location on the affected property as the former structure.

b. **Improvements to Structures.** Improvements to a structure that do not:

(1) Change the intensity of its use;

(2) Increase either the floor area, height, or bulk of the structure by more than 10 percent;

(3) Block or impede existing access; and

(4) Result in a seaward encroachment by the structure.

c. **Repair and Maintenance of a Shoreline Protective Device**. The reconstruction or repair of a bulkhead; provided that the reconstructed or repaired bulkhead is not seaward of the location of the former bulkhead.

d. **Repair and Maintenance.** A repair or maintenance activity for which the Director has determined, pursuant to Section 21.52.035, that a coastal development permit will be required unless the reviewing authority determines that the activity will have an adverse impact on lateral public access along the beach.

3. **Offer to Dedicate.** An offer to dedicate an easement (or other legal mechanism pursuant to Section 21.30A.060) for the permanent right of lateral, vertical, and/or coastal bluff access shall be required as a condition of approval, and prior to issuance, of a coastal development permit or other authorization for any new development causing or contributing to adverse impacts to public access, unless ~~exempt in compliance with Section 21.30A.020 (B)~~ excepted by subsection (B)(2) of this section or ~~waived by~~ the review authority determines that new public access is not required ~~in compliance with~~ pursuant to Section 21.30A.050 (J).

4. **Required Lateral Access.** New public accessways for any new development in the segments identified in Section 21.30A.050(A)(7)(b) shall be required unless excepted by subsection (~~B~~C)(2) of this Section or the review authority determines that new public access is not required in pursuant to section 21.30A.050 (J).~~Where feasible, public access to and along the shoreline and to beaches, coastal waters, tidelands, coastal parks, and trails shall be expanded and enhanced~~.

~~C~~D. **Recreation.** Park and recreational facilities provided for by dedications and/or in lieu fees shall be required consistent with Section 66477 of the Subdivision Map Act (known as the Quimby Act) as a condition of approval and prior to issuance of a coastal development permit or other authorization for any development causing or contributing to adverse impacts to public recreation. Where feasible, recreational opportunities in the coastal zone shall be expanded and enhanced.

~~D~~E. **Public Trust Lands.** Public access on public trust lands shall be provided pursuant to Section 21.48.085 (Public Trust Lands) and the Common Law Public Trust.

~~E~~F. **Regulation of Beach Use**. See Section 21.48.055.

21.30A.040 – Determination of Public Access/Recreation Impacts

A. **Relationship and Proportionality**. The provision of public access shall bear a reasonable relationship between the requirement and the project's impact and shall be proportional to the impact.

B. **Methodology**. In determining a development's impact on public access, the City shall evaluate, at a minimum, the factors listed below. Any access dedication required as a condition of approval shall be supported by substantial evidence in the record and findings shall explain how the adverse effects that have been identified will be alleviated or mitigated by the dedication. ~~As used in this section, "cumulative effect" means the effect of the individual project in combination with the effects of past projects, other current projects, and reasonably foreseeable projects.~~

1. **Land Use.** The project's ~~cumulative effect~~ impact on use of private lands suitable for visitor-serving commercial recreational facilities designed to enhance public opportunities for coastal recreation and other priority uses specified in California Public Resources Code Section 30222 and Section 30223.

2. **Demand for Access and Recreation.** The project's ~~cumulative effects~~ impact upon the use and capacity of the identified access and recreation opportunities, including the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs; the capacity of coastal access roads; public parking; and recreational support facilities and services.

3. **Obstructions.** Any ~~physical~~ aspects of the project that would block or impede public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs, including placement of structures, private streets, shoreline protective structures, barriers, guardhouses, gates, fences, or signs.

4. **Visual Access.** The project's ~~cumulative effects~~ impact on public access to public views to the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal bluffs, and other scenic coastal areas.

5. **Vessel Launching, Berthing, and Storage.** The project's ~~cumulative effects~~ impact on vessel launching, berthing, and storage facilities and other facilities providing public access to the ocean, harbor, bay, channels, estuaries, salt marshes, and sloughs.

6. **Shoreline Processes.** The project's ~~cumulative effects~~ impact upon shoreline conditions, including beach profile; the character, extent, accessibility and usability of the beach; erosion or accretion; character and sources of sand; wave and sand movement; and any other anticipated changes to shoreline processes that have the potential to adversely impact public access to and along the shoreline and to the harbor, bay, channels, estuaries, salt marshes, sloughs, and coastal bluffs.

7. **Other Impacts.** Any other aspects of the project, which~~, individually or cumulatively,~~ are likely to diminish the public's use of the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, beaches, coastal parks, trails, or coastal bluffs.

21.30A.050 – Development Standards

This section provides standards for the location and configuration of public access to ensure public safety and to protect public rights, rights of private property owners and leaseholders, and natural resource areas from overuse.

A. **Site Planning and Design Criteria.**

1. **General.** It is the intent of these site planning and design criteria to be carried out in a reasonable manner that considers the equities and that balances the rights of the individual property owner with the public's constitutional right of access pursuant to Section 4 of Article X of the California Constitution. Public access improvements when required pursuant to Section 21.30A.030 (Protection and Provision of Public Access Required) shall be designed to:

    a. Maximize public access to and along the shoreline and coastal blufftops;

    b. ~~**Where opportunities exist, p**~~**P**rovide new vertical accessways in areas of limited public accessibility;

    c. ~~**Where opportunities exist, i**~~**I**ncorporate pedestrian, hiking, bicycle, and equestrian trails;

    d. ~~**Where opportunities exist, p**~~**P**rovide connections to beaches, parks, recreational facilities, **bikeways,** and trail systems**, including the California Coastal Trail**;

    e. ~~**Where opportunities exist, i**~~**I**ntegrate into project designs, such as restaurants with outdoor waterfront dining areas and boarding areas for charter and excursion vessels;

    f. ~~**Where opportunities exist, p**~~**P**rovide access to coastal view corridors, where possible;

    g. ~~**Where opportunities exist, a**~~**A**lternative modes of transportation;

    h. Minimize alterations to natural landforms;

    i. Account for long-term projections in sea level rise and coastal bluff erosion rates (see Appendix A: Sea Level Rise);

    j. Protect environmentally sensitive habitat areas consistent with Coastal Act Section 30240; and

    k. Protect open coastal waters, wetlands, estuaries, and lakes consistent with Coastal Act Section 30233~~.~~; and

    l. Protect public and private property rights.

2. **Open and Unobstructed.** Public access shall be open and unobstructed.

3. **Barriers Prohibited.** Development designed to restrict access to and along the shoreline or coastal blufftops (i.e., barriers, gates, guardhouses, private streets, etc.) shall be prohibited.

4. **Location in Setback Areas.** Public access easements may be provided within required setback areas.

5. **Privacy Buffers.** A 10-feet wide buffer area between a public accessway and a residential structure shall be provided on the site when necessary to protect the landowner's privacy or security as well as the public's right to use the accessway. The review authority may reduce the width of the buffer area where separation is achieved through landscaping, fences, or changes in grade elevation.

6. **Sensitive Areas.** Public access improvements shall be sited, designed, and maintained to avoid or minimize impacts to environmentally sensitive habitat areas (ESHAs), wetlands, coastal dunes, and other sensitive resource areas in compliance with Chapter 21.30B (Environmentally Sensitive Areas).

7. **Lateral Access Design Features.**

   a. **Location.**

      (1) A lateral accessway shall extend along the entire width of a lot.

      (2) A lateral accessway shall be located on land, when feasible. A lateral accessway that consists of decking and/or boardwalks extending over the water or floating walkways may be allowed only when existing development makes onshore lateral access infeasible or as part of a comprehensive program to provide waterfront access.

   ~~c~~b. **Required Segments**. Lateral accessways segments shall be provided in the following areas:

      (1) **Lido Marina Village.** On all bayfront nonresidential and mixed-use lots in Lido Marina Village.

      (2) **Cannery Village and McFadden Square.** On all bayfront lots in Cannery Village and McFadden Square from 31st Street to 19th Street.

      (3) **Mariners' Mile.** On all bayfront lots in Mariners' Mile from the Coast Highway/Newport Boulevard Bridge to the Balboa Bay Resort.

   ~~b~~c. **Alignment.** A lateral accessway shall align with existing lateral accessways, unless an alternative alignment is approved pursuant to subsection J. of this section.

   ~~c~~d. **Minimum Width.** Lateral accessways shall be the following minimum widths:

      (1) **Lots With Dry Sand or Rocky Coastal Beaches.** For lots with dry sand or rocky coastal beaches, a lateral accessway shall be a

strip of land that extends landward from the mean high water line the greater of the following distances:

(a) 10 feet; or

(b) If the width of the beach is greater than 10 feet, to a fixed point at the most seaward of the primary extent of development, the toe of the bluff, or the first line of terrestrial vegetation. For purposes of this paragraph, the primary extent of development shall mean the intersection of sand with toe of revetment, the vertical face of a bulkhead, or other appropriate boundary (e.g., drip line of a deck, etc.).

(2) **Lots With Shoreline Protective Devices.** For lots with shoreline protective devices, a lateral accessway shall be a minimum of 10 feet in width as measured landward from the shoreline protective device.

(3) **Lots on Coastal Blufftops.** For lots on a coastal blufftops, a lateral accessway shall be a minimum of 10 feet in width as measured upland from the bluff edge.

~~d~~e. **Construction Design.** A lateral accessway may include open or enclosed unobstructed walkways; exterior decking and/or boardwalks; interior breezeways and/or walkways with a minimum vertical clearance of 8 feet above-grade, provided that the breezeways are located as close as possible to the water and are designed to provide the most direct, convenient connection between adjacent existing or potential lateral access. Exterior access is preferred over interior access.

8. **Vertical Access Design Features.**

a. **Location.** Where feasible, a minimum of one vertical accessway at every street stub, or where there are no street stubs, at every 500 feet.

b. **Linkage.** Where feasible, vertical accessways shall link with lateral accessways.

c. **Minimum Width.** A vertical accessway shall be a minimum of 6 feet in width.

9. **Coastal Bluff Access Design Features.**

a. **Lateral Access.** See Section 21.30A.050 (A)(7)~~(b)(3)~~.

b. **Street and Trail Connections.** Public access to coastal bluff areas shall be provided through design of the local street system and through the location of public trails and walkways adjacent to the bluffs.

c. **View Parks and Vista Points.** Areas adjacent to coastal bluffs having significant view potential shall be designated for use as view parks or vista points consistent with parkland dedication requirements.

10. **Bayfront Amenities**. Nonresidential development along the bayfront shall provide amenities to assure access for coastal visitors. Bayfront amenities include, but are not limited to seating, trash enclosures, water fountains, lighting, viewing areas, lighting, and other pedestrian-oriented improvements.

B. **Usage Limits.** Controls on the time, place, and manner of uses (e.g., limiting access to pass and repass; restricting hours of use; etc.) may be imposed in compliance with Chapter 21.52 (Coastal Development Review Procedures) and Section 21.30A.090(A) (Management and Maintenance – Controls).

C. **Signage.** Public accessways shall be identified by signs that conform to the Coastal Access Signing Program contained in Appendix B and any specific sign requirements established in a coastal development permit.

D. **Removal of Unauthorized Structures.** Unauthorized development, including, but not limited to signs, landscaping, **gates,** and fences that inhibit public access shall be removed.

E. **Parking.**

1. **Off-Street Parking Spaces Required.** ~~O~~ Any required off-street parking spaces shall be provided in compliance with Chapter 21.40.

2. **Public Parking Restrictions Prohibited.** Restrictions on public parking (e.g., the posting of "no parking" signs, painting curbs red, installation of physical barriers, etc.), shall be prohibited.

   a. **Exception.** ~~T~~Where there is substantial documented evidence of a public safety problem, the reviewing body may waive this standard where such restrictions are needed to protect public safety and where no other feasible alternative exists to provide public safety.

   b. **Mitigation.** Development that results in restrictions on public parking shall provide an equivalent quantity of public parking nearby as mitigation for impacts to coastal access and recreation, where feasible.

3. **Protection of Existing Public Parking.** Existing public parking that supports public access shall be protected. Any development that results in a reduction of public parking supporting public access shall provide an equivalent quantity of public parking nearby as mitigation.

4. **Use of Parking Areas During Low-Demand Periods.** Commercial or institutional development causing or contributing to adverse impacts to public access or recreation may be conditioned to allow public use of private parking areas for public access outside of normal business hours (i.e., on weekends and holidays), where feasible. Parking areas may be used for motor vehicle parking, bicycle parking, or in conjunction with public transit or shuttles that serve coastal recreational areas.

5. **Parking for Vertical Accessways.** Parking shall be provided by the developer in conjunction with new or improved vertical accessways, whenever feasible and consistent with site constraints, environmental constraints, and safety conditions.

F. **Interference with Public Use Prohibited.** After making an offer to dedicate public access in compliance with this Chapter, the property owner shall not interfere with use by the public of the areas subject to the offer before and after acceptance by the responsible entity.

G. **Encroachments Prohibited.** Encroachments or the installation of non-access-related private improvements into public accessways shall be strictly prohibited, except as provided by Section 21.30A.100 (Permitted Encroachments into Public Accessways).

H. **Vacation of Public Accessways.** Vacations of public accessways, including, but not limited to, easements and public street ends identified as providing public access, shall require a coastal development permit pursuant to Section 21.44.045 (Vacations and Abandonments).

I. **Public Prescriptive Rights.**

1. **Location of Development Where Public Prescriptive Rights Identified.** The design and siting of development shall not interfere with the potential public rights based on historic public use; unless the review authority determines that replacement public access of an equivalent type (i.e. vertical or lateral access), existing intensity of use by the public, and area will be provided on, or immediately adjacent to, the development site.

2. **Condition Not Determinative of Public Prescriptive Rights.** An access condition shall not serve to extinguish, adjudicate or waive potential public prescriptive rights. The following language shall be added to the access condition in a permit with possible public prescriptive rights:

> "Nothing in this condition shall be construed to constitute a waiver of, or a determination on, an issue of public prescriptive rights that may exist on the lot itself or on the designated easement."

J. **Modification or Waiver of Public Access ~~Requirements~~ Design Standards.** The public access **design standards** specified in Section 21.30A.050(A) may be modified or waived if, based on a feasibility analysis, supported by substantial evidence, it is not feasible to comply with the City-preferred public access requirement.

~~1. **Lateral Access.** The lateral access requirements specified in Section 21.30A.050 (A) may be waived or modified in the following situations:~~

~~a. When the applicant can demonstrate, based on an engineering analysis, that all or a portion of such access is physically infeasible and there are no design alternatives capable of overcoming topographical or site constraints that jeopardize public safety or fragile coastal resources.~~

1. **Marine Service Equipment Detours.** ~~b.~~ Where marine service equipment and operations present security or public safety concerns, waterfront access detours are necessary in order to maintain facilities and services essential to the operation of the harbor.

~~2. **Vertical Access.** The vertical access requirements specified in Section 21.30A.050 (A) (2) may be waived or modified in the following situations:~~

~~a. When the provisions of new accessways are inconsistent with public safety, military security needs, or the protection of fragile resources.~~

~~b. When adequate access exists nearby.~~

2. **Coastal Bluff Access.** The coastal bluff access **requirements design standards** specified in Section 21.30A.050 (B) may be waived or modified in the following situations:

a. When the design of the existing local street system and/or the location of existing public trails and walkways cause all or a portion of such access to be physically infeasible and there are no design alternatives capable of overcoming these constraints.

b. When the applicant can demonstrate, based on an engineering analysis, including slope stability analysis and erosion rate estimates, that all or a portion of such access is physically infeasible and there are no design alternatives capable of overcoming topographical or site constraints that jeopardize public safety or fragile coastal resources.

~~c. When adequate access exists nearby.~~

3. **Mitigation.** Should public access **design standards** specified in Section 21.30A.050(A) be modified or waived, the reviewing authority shall require the applicant to mitigate for the project's access impacts in an alternative manner that is roughly proportional to the project's impact on public access and in substantial conformance with the requirements **of this section**.

K. **California Coastal Trail (CCT).** The City shall coordinate and collaborate with state agencies in planning and implementing the Newport Beach segment of the California Coastal Trail.

1. **Goals and Objectives.** It is intended that the CCT system shall be designed and implemented to achieve the following goals and objectives:

a. Provide a continuous walking and hiking trail as close to the ocean as possible;

b. Provide maximum access for a variety of non-motorized uses by utilizing parallel trail segments where feasible;

c. Maximize connections to existing and proposed local trail systems;

d. Ensure that the trail has connections to trailheads, parking areas, transit stops, inland trail segments, etc. at reasonable intervals;

e. Maximize ocean views and scenic coastal vistas; and,

f. Provide an educational experience where feasible through interpretive programs, kiosks, and other facilities.

2. **Site Planning and Design Standards.** In addition to the site planning and design criteria in Section 21.30A.50(A), implementation of the CCT shall:

a. Be sited and designed to be located along or as close to the shoreline as is physically and aesthetically feasible. Where it is not feasible to locate the trail along the shoreline due to natural landforms or legally authorized development that prevents passage at all times, inland bypass trail segments located as close to the shoreline as possible should be utilized. Shoreline trail segments that may not be passable at all times should be augmented by inland alternative routes. Special attention should be given to identifying any segments that may need to be incorporated into water-crossing structures and that necessarily must be placed within Caltrans right-of way.

b. Where gaps are identified, interim segments should be employed to ensure continuity of the coastal trail. Interim segments should be noted as such, with provisions that as opportunities arise, the trail shall be realigned as close as possible to its optimum location. Interim trail segments should meet as many of the CCT objectives and standards as possible.

c. Be designed and located to minimize impacts to environmentally sensitive habitat areas and prime agriculture lands to the maximum extent feasible. Where appropriate, trail access should be limited to pass and repass. Where necessary to prevent disturbance to sensitive species, sections of the trail may be closed on a seasonal basis. Alternative trail segments shall be provided where feasible. For situations where impact avoidance is not feasible, appropriate mitigation measures should be identified, including but not limited to use of boardwalks, reducing width of trails, protective fencing and drainage measures along edges of agricultural land, etc.

d. Be located to incorporate existing oceanfront trails and paths and support facilities of public shoreline parks and beaches to the maximum extent feasible.

e. Be designed to avoid being located on roads with motorized vehicle traffic where feasible. In locations where it is not possible to avoid siting the trail along a roadway, the trail should be located off of the pavement and within the public right-of-way, and separated from traffic by a safe distance or by physical barriers that do not obstruct, or detract from, the scenic views and visual character of their surroundings. In locations where the trail must cross a roadway, safe under- or over-crossings or other alternative at-grade crossings should be considered in connection with appropriate directional and traffic warning signage.

f. To maximize access to the CCT, adequate support facilities, such as parking areas and trailheads, should be provided.

21.30A.060 – Access Title and Guarantee

Where public coastal accessways are proposed by an applicant or required as a condition of approval of a coastal development permit or other authorization, a guarantee of the access through deed restriction, or dedication of right-of-way or easement shall be required. Prior to the issuance of a coastal development permit or other authorization, the method and form of the access guarantee shall be approved by City Attorney, and shall be recorded in the office of the

County Recorder, identifying the precise location and area to be set aside for public access. The method of access guarantee shall be chosen according to the following criteria:

A. **Deed Restriction.** A deed restriction shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the public access area, subject to approval by the Director.

B. **Grant of Fee Interest or Easement.** A grant of fee interest or easement shall be used when a public agency or private organization approved by the City Council is willing to assume ownership, maintenance and liability for the access.

C. **Offer of Dedication.** An offer of dedication shall be used when no public agency~~,~~ or private organization ~~or individual~~ is known to be willing to accept fee interest or easement for accessway maintenance and liability. These offers shall not be accepted until maintenance responsibility and liability is established.

~~C~~D. **Maintenance.** A dedicated public accessway shall not be required to be opened to public use until a public agency or private association approved by the City Council agrees to accept responsibility for maintenance and liability of the access, except in cases where immediate public access is implemented through a deed restriction.

21.30A.070 [RESERVED] ~~– Coastal Commission Review of Recorded Access Documents~~

~~A. **Standards and Procedures.** Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate or grant an interest or easement in land for public use, a copy of the permit conditions, findings of approval, and drafts of any legal documents proposed to implement the conditions shall be forwarded to the Coastal Commission for review and approval prior to the issuance of the permit consistent with the following procedures and California Code of Regulations Section 13574:~~

~~1. The Executive Director of the Coastal Commission shall review and approve all legal documents specified in the conditions of approval of a coastal development permit for public access and conservation/open space easements.~~

~~a. Upon completion of permit review, and prior to the issuance of the permit, the City shall forward a copy of the permit conditions, findings of approval, and copies of the legal documents to the Executive Director of the Coastal Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies;~~

~~b. The Executive Director of the Coastal Commission shall have fifteen (15) working days from receipt of the documents in which to complete the review and notify the City of recommended revisions if any;~~

~~c. The City may issue the permit upon expiration of the fifteen (15) working day period if notification of inadequacy has not been received by the City within that time period;~~

~~d. If the Executive Director has recommended revisions to the City, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the Executive Director; or~~

~~2. If the City requests, the Coastal Commission shall delegate to the City the authority to process the recordation of the necessary legal documents pertaining to the public access and open space conditions. Upon completion of the recordation of the documents the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the Executive Director of the Coastal Commission.~~

21.30A.080 – Timing of Access Requirements

The type and extent of access to be dedicated, and/or constructed and maintained, as well as the method by which its continuing availability for public use is to be guaranteed, shall be established at the time of coastal development permit approval or other authorization, as provided by this section.

A. **Guarantee Precedes Permit Issuance.** The guarantee of public access in the form required in compliance with Chapter 21.52 (Coastal Development Review Procedures) shall occur before issuance of construction permits or the start of construction activity not requiring a permit.

B. **Construction of Improvements.** Construction of improvements shall occur at the same time as construction of the approved development, unless another time is established through conditions of coastal development permit approval or other authorization.

C. **Interference with Public Use Prohibited.** Following an offer to dedicate public access pursuant to this section; the property owner shall not interfere with use by the public of the areas subject to the offer before and after acceptance by the responsible entity.

21.30A.090 – Management and Maintenance

A. **Controls.** Based on substantial evidence and documentation, submitted in conjunction with a coastal development permit application, the City may ~~require~~ impose controls on the time, place, and manner of public access when justified by site characteristics, including topographic and geologic conditions, the intensity of use and the capacity of the site to sustain the use, the fragility of natural resource areas, the need to protect the privacy or security of residential development, public safety services access, and the provision of support facilities. Such controls shall only be imposed with a clause requiring periodic re-evaluation for its continued need.

B. **Management and Maintenance Plan.** A management and maintenance plan that maximizes public access may be required in conjunction with a dedication of public access in any case where there is substantial evidence of potential conflicts between public access use and other uses on or immediately adjacent to the site. The plan shall be a condition of approval of the coastal development permit and shall at minimum address:

1. Regular inspections;

2. Vegetation maintenance to ensure accessway remains safe and unobstructed;

3. Regular trash/litter pickup; and

4. Signage.

~~**21.30A.100 – Permitted Encroachments into Public Rights-of-way and Accessways**~~

A. **Purpose.** This section establishes procedures for approval of permitted encroachments, removal of prohibited encroachments, limiting the extent of encroachments, and clarification of improvements permitted within public Right-of-Way/accessways. Any development such as grading, structures or landscaping within permitted encroachment zones is also considered development requiring a Coastal Development Permit.

B. **Public Right-of-Way Encroachments**. Standardized private improvements permitted within public rights-of-way with an encroachment permit and, if applicable, an encroachment agreement, provided such improvements do not interfere with the use of public accessways or otherwise diminish public rights. This subsection applies to encroachments not covered in subsection (C) of this Section. Any private encroachment into unimproved or improved public right-of-way associated with lateral accessways identified in LUP Coastal Access and Recreation Map 3-1 shall be required to participate in an annual encroachment permit consistent with the Oceanfront Boardwalk Encroachments as provided in subsection (C) of this Section. Such improvements include, but are not limited, to:

1. Driveways approaches constructed to Standard Plans and Specifications of the City of Newport Beach;

2. Carriage walks;

3. Median and parkway landscaping;

4. CATV and public utility facilities;

5. Mailboxes, when required by the U.S. Postal Service;

6. Utility pedestals;

7. Structural encroachments, including but not limited, to fences, walls, patios, and raised planters that do not exceed three (3) feet; and

8. Improvements consistent with Subsection C.

C. **Oceanfront Boardwalk.** The maximum seaward extent of private encroachments into public right-of-way or accessways shall be limited pursuant to Appendix C (Oceanfront Encroachment Policy Guidelines) of this Implementation Plan. to the following encroachment zones:

1. **Encroachment Zones.**

Santa Ana River to 52nd Street. A maximum of fifteen (15) feet seaward of the rear (ocean facing) property line within the seaward prolongation of the side property lines.

52nd Street to 36th Street. A maximum of ten (10) feet seaward of the rear (ocean facing) property line within the seaward prolongation of the side property lines.

36th Street to E Street. Between A Street and a point two hundred and fifty (250) feet southeast of E Street, up to the inland edge of the Oceanfront Boardwalk (7 to 8 feet seaward of the rear property line) and within an seaward prolongation of the side property lines.

a. **From a point 250 feet southeast of E Street to Channel Road.** A maximum of fifteen (15) feet seaward of the rear (ocean facing) property line within the seaward prolongation of the side property lines.

2. **Prohibited Encroachments.**

a. Encroachments and improvements are prohibited seaward of private property between 36th Street and A Street provided, however, the northerly edge of Oceanfront Boardwalk in this area is not always coincident with the seaward private property line. Improvements northerly of the north edge of the boardwalk are not considered encroachments or prohibited by this section;

b. Encroachments, including irrigation systems, and improvements are prohibited seaward of any ocean front parcel from a point two hundred and fifty (250) feet southeast of E Street to Channel Road, provided existing trees which have been planted and maintained in conformance with City standards, and ground cover such as existing, non-irrigated ice plant or indigenous plants are not considered to be an encroachment, and will not require a permit pursuant to this section;

c. Any existing encroachment or improvement for which no application has been filed on or before May 31, 1992, and any new encroachment or improvement for which no application is filed prior to installation is prohibited;

d. Any new or existing encroachment or improvement which, on or after July 1, 1992, is not in conformance with this section is prohibited;

e. Any new or existing encroachment or improvement for which there is no valid permit.

3. **Permitted Improvements**. The following improvements are permitted within the encroachment zones:

a. Patio slabs or decks no higher than six (6) inches above grade or the finished floor grade of the adjacent residence;

b. Walls and/or fences less than thirty-six (36) inches in height above grade or the finished floor grade of the existing residence;

c. Existing improvements which were constructed in conjunction with development for which a building permit was issued prior to May 31, 1992, may be approved by the Public Works Director upon a finding that the improvement is consistent purpose of this chapter and the cost of strict compliance is disproportionate to the extent of the nonconformity.

d. Protective devices necessary to control erosion, provided the device is sited to occur as close to private property as feasible.

4. **Prohibited Improvements**. The following improvements are prohibited within the encroachment zones:

a. Except for perimeter walls and/or fences less than thirty-six (36) inches in height, any structural, electrical, plumbing or other improvements which require issuance of a building permit;

b. Pressurized irrigation lines and valves;

c. Any object which exceeds thirty-six (36) inches in height, exclusive of the following:

i. Trees planted by the City or private parties pursuant to City standards; or

ii. Any landscaping or vegetation within the encroachment zone subject to the following:

(1) The vegetation or landscaping was installed prior to November 26, 1990;

(2) The vegetation or landscaping does not impact public access, recreation, views and/or coastal resources;

(3) The vegetation or landscaping does not meet the definition of a hedge;

(4) The vegetation or landscaping does not impair or affect the health, safety or welfare of persons using the Oceanfront Boardwalk, nearby property owners, or residents of the area;

(5) Vegetation or landscaping within coastal dune habitat is restricted to native plant species;

(6) New plant materials that have been approved under a separate coastal development permit.

5. **Modification to Improvement Limits.** The Public Works Director may approve minor dimensional tolerances for permitted improvements only upon a finding that the improvement is consistent with the purpose of this chapter and the cost of strict compliance is disproportionate to the extent of the nonconformity. In no event shall the Public Works Director approve a permit for an improvement that varies more than twelve (12) inches from the horizontal dimensional regulations of this section.

6. **Maintenance.**

a. Improvements shall be maintained in a manner that does not impact public access, recreation, views and/or coastal resources;

b. Landscaping improvements shall be maintained in compliance with Section 21.30.075 (B)(4);

c. The City shall reduce the height of any existing landscaping at any time, upon a determination by the Public Works Director, and after notice to the owner of property on which the vegetation or landscaping exists, that a reduction in height is necessary or appropriate.

7. **Permits.**

a. **Annual Permit Required.** An encroachment permit shall be required each year for all permitted improvements.

b. **Renewal.** The Public Works Director shall approve annual renewal if:

i. The applicant has complied with all standard and special conditions of approval;

ii. The applicant has constructed only those improvements and encroachments authorized by the permit;

iii. The applicant is in compliance with all of the provisions of this section.

c. **Annual Fees.** Annual permit fees shall be set by the City's master fee schedule.

8. **Waiver.** The applicant shall agree to waiver of any right to contest the City's street and public access easement over the property within or seaward of the encroachment zones.

9. **Revocation.** The City shall, in addition to any right or remedy provided by law, have the right to do any or all of the following in the event an applicant is in violation of the provisions of this section, or any condition to the permit, or any encroachment or improvement violates the provisions of this section:

Revoke the permit after giving the applicant notice and an opportunity to be heard upon a determination that there is substantial evidence to support a violation.

Summarily abate any encroachment or improvement violative of this section after giving the applicant or property owner ten (10) days written notice of its intention to do so in the event the applicant or property owner fails to remove the encroachment or improvement. The applicant or property owner shall pay all costs incurred by the City in summarily abating the encroachment or improvement. The determination of the Public Works Director with respect to abatement shall be final.

10. **Use of Funds.** A minimum of eighty-five (85) percent of the fees generated by encroachments permits shall be used for the construction and maintenance of improvements which directly benefit the beach-going public such as parking spaces, restrooms, West Newport/Balboa Peninsula shuttle program, vertical or lateral walkways along the beach and similar projects.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.30B – Habitat Protection

Sections:

21.30B.010 Purpose
21.30B.020 Initial Site Resources Survey
21.30B.030 Environmentally Sensitive Habitat Areas
21.30B.040 Wetlands, Deepwater Areas, and Other Water Areas
21.30B.050 Coastal Dunes
21.30B.060 Mitigation and Monitoring

21.30B.010 – Purpose

This Chapter is intended to:

A. Protect environmentally sensitive habitat areas against any significant disruption of habitat values.

B. Maintain and, where feasible, restore the biological productivity and the overall quality of coastal waters, streams, wetlands, estuaries, and lakes.

C. Protect wetlands for their commercial, recreational, water quality, and habitat value.

21.30B.020 – Initial Site Resource Survey

Applicability. An initial site resource survey, recently prepared (within one year) identifying the presence or potential for wetlands or sensitive habitat, vegetation or wildlife species on the site shall be required for coastal development permit applications on a development site that:

A. Is located within or within ~~fifty~~one hundred (~~5~~100) feet of an Environmental Study Areas (ESA) indicated in Map 4-1 (Environmental Study Areas) in the Coastal Land Use Plan; or

B. Contains southern coastal foredune or southern dune scrub habitats; or

C. Contains or is located within one hundred (100) feet of a delineated wetland, designated Environmentally Sensitive Habitat Area (ESHA), ESHA buffer, or wetland buffer; or

D. Contains or is located within one hundred (100) feet of a habitat area where there is substantial evidence of the presence of a wetland or ESHA.

21.30B.030 – Environmentally Sensitive Habitat Areas

A. **ESHA Designation**. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments shall be designated as an environmentally sensitive habitat area (ESHA).

1. **Exceptions**. ESHAs do not include the following areas:

    a. Existing developed areas; and

    b. Existing fuel modification areas required by the City of Newport Beach Fire Department or the Orange County Fire Authority for existing, legal structures.

B. **Protection Required**. ESHAs shall be protected against any significant disruption of habitat values, and only uses dependent on ~~such~~ those resources shall be allowed (see Section 21.30B.030 (F) (Limits on Land Uses)). Development in areas adjacent to ESHAs shall be sited and designed to prevent impacts which would significantly degrade such areas, and shall be compatible with the continuance of the ESHA.

C. **ESHA Report.** If the initial site resources survey indicates the presence or potential for sensitive habitat vegetation or wildlife species on the site, a report shall be required with recommendations as to whether a habitat area constitutes an ESHA.

1. **Evaluation**. Using a recently prepared (within one year) site-specific survey and analysis, the ESHA report shall evaluate the following attributes when recommending whether a habitat area constitutes an ESHA:

    a. The presence of natural communities that have been identified as rare by the California Department of Fish and ~~Game~~Wildlife.

    b. The recorded or potential presence of plant or animal species designated as rare, threatened, or endangered under State or Federal law.

    c. The presence or potential presence of plant or animal species that are not listed under State or Federal law, but for which there is other compelling evidence of rarity, such as designation as a 1B or 2 species by the California Native Plant Society.

    d. The presence of coastal streams.

    e. The degree of habitat integrity and connectivity to other natural areas.

    Attributes to be evaluated when determining a habitat's integrity/connectivity include the habitat's patch size and connectivity, dominance by invasive/non-native species, the level of disturbance, the proximity to development, and the level of fragmentation and isolation.

2. **Recommendation**. If an area is recommended as an ESHA, the boundaries of the ESHA and the appropriate buffers shall be made to the review authority.

D. **ESHA Buffers**. A protective open space buffer shall be required to horizontally separate ESHA from development areas and provide distance and physical barriers to human and domestic pet intrusion.

1. **Size**. ESHA buffers shall be of a sufficient size to ensure the biological integrity and preservation of the habitat they are designed to protect. Terrestrial ESHA shall have a minimum buffer width of fifty (50) feet wherever possible.

    a. **Exceptions**: Smaller ESHA buffers may be allowed only where it can be demonstrated that:

        (1) A fifty (50) foot wide buffer is not possible due to site-specific constraints; and

        (2) The proposed narrower buffer would be amply protective of the biological integrity of the ESHA given the site-specific characteristics of the resource and of the type and intensity of disturbance.

2. **Vegetation**.

    a. ESHA buffers shall be maintained exclusively with native vegetation to serve as transitional habitat.

    b. ~~Fuel modification zones abutting sensitive habitats shall consist of fire-resistive, native plant species from the City-approved plant list~~Fuel modification zones shall be maintained outside of ESHA buffers.

    c. Invasive plant species shall be prohibited.

E. **Design and Siting**. Development outside, but within one hundred (100) feet of an ESHA shall incorporate the following design and site characteristics:

1. Development ~~within or~~ adjacent to an ESHA shall be designed and sited to protect ESHA resources against any significant disruption of habitat values.

2. Development adjacent to an ESHA shall be compatible with the continuance of ESHA habitat areas.

3. Development adjacent to an ESHA shall be limited to low impact land uses, such as open space and passive recreation whenever feasible.

4. Development shall not necessitate fuel modification in an ESHA or ESHA buffer.

5. Development lighting adjacent to an ESHA shall minimize impacts to wildlife.

    a. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to direct lighting away from environmentally sensitive habitat areas (ESHA) and ESHA buffers and to minimize glare, sky glow, and light trespass.

    b. Buildings shall be designed to minimize light trespass from interior lighting.

c. ~~The~~ All lighting shall utilize the best available "dark sky" practices, including the use of lights with the lowest intensity ~~lighting~~ possible for safety purposes and that utilize wavelengths that are the most environmentally protective of organisms active at night and dawn and dusk~~shall be used that is appropriate to the intended use of the lighting~~.

6. Unauthorized structures that impact, or encroach into, ESHA or ESHA buffer shall be removed.

F. **Limits On Land Uses**. ESHA shall be protected against any significant disruption of habitat values. Uses within ESHA shall be limited to only those uses that are dependent on ~~such~~ those resources. Limited public access improvements (e.g., hiking and educational trails and low-impact camping), ~~and~~ minor educational, interpretative and research activities and development, and habitat restoration projects may be considered resource dependent uses. Measures, including, but not limited to, trail creation, signage, placement of boardwalks, and fencing, shall be implemented as necessary to protect ESHA.

~~1. **Exception to Protect Private Property.** If the application of ESHA land use limitations would likely constitute an unconstitutional taking of private property, then a non-resource dependent use shall be allowed on the property, provided development is limited to the minimum amount necessary to avoid an unconstitutional taking and the development is consistent with all other applicable resource protection policies.~~

G. **Required Findings**. No development shall be allowed in an ESHA or ESHA buffer area unless the following findings are made:

1. The resource as identified will not be significantly degraded or disrupted by the proposed development and the development will be compatible with the continuance of the resource.

2. There is no feasible less environmentally damaging alternative.

3. All feasible mitigation measures capable of reducing or eliminating project related impacts have been adopted.

21.30B.040 – Wetlands, Deepwater Areas, and Other Water Areas

A. **Protection Required**.

1. The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes shall be protected, maintained and, where feasible, restored.

2. All uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

3. Marine resources shall be maintained, enhanced, and, where feasible, restored.

4. Special protection shall be provided to marine resource areas and species of special biological or economic significance.

B. **Wetland Delineation**. When the initial site resources survey indicates the presence or potential for wetland species or indicators, coastal development permit applications shall include a recently prepared (within one year) site survey and wetlands delineation analysis ~~with the delineation of all wetland areas~~.

1. **Methodology**. Wetland delineations shall be conducted in accordance with the definitions of wetland boundaries contained in Section 13577(b) of the California Code of Regulations ~~and Statewide Interpretive Guidelines for Wetlands and Other Environmentally Sensitive Habitat Areas published by the California Coastal Commission~~.

2. **Other Factors**. Although vegetation is often the most readily observed parameter, sole reliance on vegetation or either of the other parameters as the determinant of wetlands can sometimes be misleading. Many plant species can grow successfully in both wetlands and non-wetlands, and hydrophytic vegetation and hydric soils may persist for decades following alteration of hydrology that will render an area a non-wetland. Where ambiguities in wetland delineation exist due to the demonstrated presence of both upland and wetland characteristics, factors other than the standard field indicators of wetland hydrology, wetland vegetation and wetland soils may be analyzed as part of the delineation. Such factors may include topography, soil permeability, drainage patterns, adjacency to identified wetlands, and comparisons of hydrology at the ambiguous site and at nearby upland and wetland reference sites following significant rainfall events. The simple lack of field indicators of hydrology during a routine delineation is not strong evidence of upland characteristics (Coastal Commission findings for approval of the Coastal Land Use Plan, October 13, 2005).

3. **Recommendation**. The recommended wetland delineation and the appropriate buffers shall be made to the review authority.

C. **Wetland Buffers**. A protective open space buffer shall be required to horizontally separate wetlands from development areas. Wetland buffers shall be of a sufficient size to ensure the biological integrity and preservation of the wetland. Wetlands shall have a minimum buffer width of one hundred (100) feet wherever possible.

1. **Exception**: Smaller wetland buffers may be allowed only where it can be demonstrated that:

   a. A one hundred (100) foot wide buffer is not possible due to site-specific constraints; and

b. The proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and intensity of disturbance.

D. **Channelizations**. Channelizations, dams, or other substantial alterations of rivers and streams shall incorporate the best mitigation measures feasible, and be limited to:

1. Necessary water supply projects.

2. Flood control projects where no other method for protecting existing structures in the floodplain is feasible and where such protection is necessary for public safety or to protect existing development

3. Developments where the primary function is the improvement of fish and wildlife habitat.

F. **Removal of Unauthorized Structures**. All unauthorized structures that impact, or encroach into, wetlands, deepwater areas, or other water areas shall be removed.

E. **Diking, Filling, and Dredging Projects.**

1. **Limits on Development**. Development involving the diking, filling, or dredging of open coastal waters, wetlands, or estuaries shall only be permitted consistent with Section 30233 of the Coastal Act and under the following circumstances:

a. Only if there is no feasible, less environmentally damaging alternative.

b. If there is no feasible, less environmentally damaging alternative, mitigation measures shall be provided to minimize adverse environmental effects.

c. Diking, filling or dredging projects shall sustain the functional capacity of the wetland, or estuary. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:

(1) That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project.

(2) That the project does not harm or destroy a species or habitat that is rare or endangered.

(3) That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary.

(4) That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or non-consumptive (e.g., water

quality and research opportunity) values of the wetland or estuarine ecosystem.

2. **Limits On Uses**. Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to the following:

   a. Construction or expansion of port/marine facilities.

   b. Construction or expansion of coastal-dependent industrial facilities, including commercial fishing facilities, and commercial ferry facilities.

   c. In open coastal waters, other than wetlands, including estuaries and streams, new or expanded boating facilities, including slips, access ramps, piers, marinas, recreational boating, launching ramps, and pleasure ferries, and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

   d. Recreational docks and piers within the intertidal areas, including wetlands, in Newport Harbor.

   ~~e. Maintenance or replacement of existing bulkheads when expansion or encroachment into coastal waters is limited to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and the backfill is not used to create new usable residential land areas.~~

   f. Maintenance of existing and restoration of previously dredged depths in navigational channels, turning basins, vessel berthing, anchorage, and mooring areas, and boat launching ramps. The most recently updated U.S. Army Corps of Engineers maps shall be used to establish existing Newport Bay depths.

   g. Incidental public service purposes which temporarily impact the resources of the area, such as burying cables and pipes, inspection of piers, and maintenance of existing intake and outfall lines.

   h. Sand extraction for restoring beaches, except in environmentally sensitive areas.

   i. Restoration purposes.

   j. Nature study, aquaculture, or similar resource-dependent activities.

   k. In the Upper Newport Bay Marine Park, permit dredging, diking, or filling only for the purposes of wetland restoration, nature study, or to enhance the habitat values of environmentally sensitive areas.

~~3. **Exception for Restoration Projects.** Restoration projects permitted pursuant to subsection (E)(2) may include some fill for non-permitted uses if the wetlands~~

~~are small, extremely isolated, and incapable of being restored. Small, extremely isolated parcels that are incapable of being restored to biologically productive systems may be filled and developed for uses not ordinarily allowed only if such actions establish stable and logical boundaries between urban and wetland areas and if the applicant provides funds sufficient to accomplish an approved restoration program in the same general region. All the following criteria must be satisfied before this exception is granted:~~

~~a. The area of the wetland to be filled is less than one (1) acre.~~

~~b. The wetland to be filled is not contiguous or adjacent to a larger wetland.~~

~~c. The wetland to be filled is so small and isolated that it is not capable of recovering and maintaining a high level of biological productivity without major restoration activities.~~

~~d. The wetland does not provide significant habitat value to marine and wildlife species, and is not used by any species that are rare or endangered.~~

~~e. Restoration of another wetland to mitigate for fill can most feasibly be achieved in conjunction with filling a small wetland. The mitigation measure shall be carried out in a manner that would result in no net loss of either wetland acreage or habitat value.~~

~~f. Restoration site is abutting or adjacent to a larger, contiguous wetland area providing significant habitat value to fish and wildlife that would benefit from the addition of more area.~~

~~g. The restoration site is within the general area surrounding the wetland where the fill occurred.~~

~~h. The California Department of Fish and Game and the U.S. Fish and Wildlife Service has determined that the proposed restoration project can be successfully carried out.~~

4. **Dredge Material Disposal**.

   a. Dredged material disposal shall to be planned and carried out to limit turbidity and to avoid significant disruption to marine and wildlife habitats and water circulation.

   b. Dredged material suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.

c. Dredge material suitable for beach replenishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems.

21.30B.050 – Coastal Dunes

A. **Purpose**. This section provides requirements for development in areas with or adjacent to coastal dunes. The intent of this section is to protect coastal dune as natural habitats and for shoreline protection.

B. **Applicability**. The requirements of this section shall apply to coastal development permit applications in areas with southern coastal foredune and southern dune scrub habitats.

C. **Earthmoving**. Earthmoving of beach sand in dune habitat areas shall be limited to dune restoration projects necessary for the protection of coastal resources and existing development. ~~The use of temporary sand dunes to protect buildings and infrastructure from wave uprush during storm events shall be permitted.~~

D. **Public Access and Recreation**. Public beach access improvements shall be designed, sited, and maintained in a manner to avoid ~~or minimize~~ impacts to dune habitats through the use of well-defined footpaths, boardwalks, protective fencing, signage, and similar methods. Recreation improvements shall be designed and sited to avoid ~~impacts to~~ dune habitat areas.

E. ~~**Landscaping**~~**Restoration of Native Vegetation**. Plant materials in southern coastal foredune and southern dune scrub habitat areas shall be restricted to native plant species appropriate to the habitat type. The City shall develop a program for the removal of exotic vegetation and restoration of native vegetation on public beaches. ~~All exotic vegetation shall be removed.~~

21.30B.060 – Mitigation and Monitoring

A. **When Required**. Mitigation and monitoring programs, including restoration plans and management programs, shall be submitted with the coastal development permit application.

1. **ESHA**. Mitigation shall be required for allowable impacts to ESHA and other sensitive resources that cannot be avoided through the implementation of siting and design alternatives. Mitigation shall not substitute for implementation of the project alternative that would avoid impacts to ESHA.

2. **Wetlands**. Feasible mitigation measures shall be required to minimize adverse environmental effects of diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes where the proposed use is consistent with Section 30233 of the Coastal Act and there is no feasible less environmentally damaging alternative.

B. **Mitigation Programs**. Mitigation programs shall include the following components:

1. Specific mitigation objectives and performance standards designed to measure the success of the restoration and/or enhancement.

2. Provisions for acquiring title or other property interest to the mitigation site.

3. Provisions for the dedication of the restored or created habitat or wetland and associated buffer areas to a public agency or non-profit entity acceptable to the reviewing authority, or permanent restriction of their use to open space purposes.

4. A monitoring and management program with mitigation objectives and performance standards.

C. **Habitat Creation/Restoration**.

1. **ESHA**. Mitigation for impacts to ESHA and other sensitive resources shall be in the form of habitat creation or substantial restoration. The mitigation shall occur on-site wherever possible. Off-site mitigation measures shall only be approved when it is not feasible to fully mitigate impacts on-site.

2. **Wetlands**. Mitigation shall occur in the same watershed and in the form of in-kind wetland restoration or creation whenever possible. Where out-of-kind mitigation is necessary, restoration or creation of wetlands shall be of equal or greater biological productivity to the wetland that was filled or dredged. Mitigation may **also** be permitted ~~through~~ in the form of restoration that includes opening equivalent areas to tidal action or provide~~e~~ing other sources of surface water. ~~in place of creating or restoring wetlands.~~

D. **Mitigation Ratios**. Table 21.30B-1 provides required mitigation ratios of acreage restored/created to acreage impacted.

Table 21.30B-1
Required Mitigation Ratios

HABITAT	RATIO
Scrub	
Diegan Coastal sage scrub	2:1
A ratio of 3:1 shall be required for coastal sage scrub that is occupied by California gnatcatchers or significant populations of other rare species.	
Maritime succulent scrub	3:1
Chaparral	
Southern mixed chaparral	1:1
Southern maritime chaparral	3:1
Native grassland	
Southern coastal needlegrass grassland	3:1
Southern Coastal Dunes	3:1
Wetland	
Seasonal wetlands (other than vernal pools)	3:1
Coastal freshwater marsh	3:1
Riparian habitats	3:1
Southern hardpan vernal pools	4:1

Coastal brackish marsh	4:1
Southern coastal salt marsh	4:1
Eelgrass	1.2:1
~~A mitigation ratio of 2:1 may be allowed upon evidence establishing that restoration or creation of a lesser area of wetlands will fully mitigate the adverse impacts of the project. A mitigation ratio less than 2:1 may be allowed provided, prior to the development impacts, the mitigation is completed and is empirically demonstrated to meet performance criteria that establish that the created or restored wetlands are functionally equivalent or superior to the impacted wetlands.~~	
Other form of rare community types	3:1

Per Table 21.30B-1, adverse impacts shall be mitigated at a ratio of 3:1 for impacts to seasonal wetlands, freshwater marsh and riparian areas, and at a ratio of 4:1 for impacts to vernal pools and saltmarsh unless the applicant provides evidence establishing, and the approving authority finds, that restoration or creation of a lesser area of wetlands will fully mitigate the adverse impacts of the project. However, in no event shall the mitigation ratio be less than 2:1 unless, prior to the development impacts, the mitigation is completed and is empirically demonstrated to meet performance criteria that establish that the created or restored wetlands are functionally equivalent or superior to the impacted wetlands.

E. **Timing**. Any off-site mitigation site shall be purchased and legally restricted and/or dedicated before impacts to the ~~project~~ development site can proceed. Restoration plans shall to be reviewed and approved by a qualified professional pursuant to Section 21.50.070 (Environmental Review) prior to accepting sites for mitigation. Restoration and management plans shall be submitted with the Coastal Development Permit application. At a minimum, a Coastal Development Permit will be conditioned to assure that the restoration/mitigation will occur simultaneously with construction of the approved development.

F. **In-lieu Fee for Wetland Impacts**. An in-lieu fee may be paid to an appropriate public agency to mitigate ~~habitat or~~ wetland impacts, if no appropriate mitigation site can be acquired. Payment of an in-lieu fee would only be an option if an applicant is unable to find a potential restoration site. The fee shall be based on the following factors:

1. The habitat type.

2. The costs of acquisition, including litigation.

3. The cost per acre to restore or create a comparable ~~habitat type or~~ wetland within the region where the impact occurred.

4. The acreage of the habitat affected, based on the final approved project. ~~For wetlands, the acreage shall the area of equivalent productive value or equivalent surface area.~~

G. **Upper Newport Bay Marine Park**. The following mitigation measures are required for dredging projects in the Upper Newport Bay Marine Park:

1. Dredging and spoils disposal must be planned and carried out to limit turbidity and to avoid significant disruption to marine and wildlife habitats and water circulation.

2. Maintenance dredging shall be encouraged where the dredging provides habitat protection or enhances commercial or recreational use of the Bay. When dredged material is of an appropriate grain size and grain percentage, this material may be used to restore or replace natural sandy sloping beaches in order to retain the current profiles of Newport Bay. Maintenance dredging activity shall have the approval of the U.S. Army Corps of Engineers and shall meet applicable U.S. Environmental Protection Agency standards.

3. Dredged material not suitable for beach nourishment or other permitted beneficial reuse shall be disposed of offshore at a designated U.S. Environmental Protection Agency disposal site or at an appropriate upland location.

4. Temporary dewatering of dredged spoils may be authorized within the Bay's drainage if adequate erosion controls are provided and the spoils are removed. A bond or a contractual arrangement shall be a precondition to dredging of the material, and final disposal of the dewatered material on the approved dump site shall be accomplished within the time period specified in the permit.

5. Dredged spoils shall not be used to fill riparian areas, wetlands, or natural canyons or any native vegetation community.

6. Other mitigation measures may include opening areas to tidal action, removing dikes, improving tidal flushing, restoring salt marsh or eelgrass vegetation, or other restoration measures.

7. Dredge spoils suitable for beach nourishment should be transported for such purposes to appropriate beaches or into suitable long shore current systems provided that the placement is permitted by a Section 404 permit and by any other agencies with jurisdiction over the project.

H. **Monitoring**. Monitoring of mitigation measures shall be for a period of sufficient time to determine ~~is~~ if mitigation objectives and performance standards are being met. Mid-course corrections shall be implemented if necessary to meet the objectives or performance standards.

1. **Period**. Monitoring shall be conducted a period of not less than 5 years following completion, unless the Director determines that a ~~differing~~ longer mitigation monitoring schedule is appropriate. If performance standards are not met by the specified monitoring period, the monitoring period shall be extended until the standards are met or the applicant shall submit an amendment application proposing alternative mitigation measures and implement the approved changes.

2. **Reports**. Monitoring reports that document the success or failure of the mitigation shall be provided to the Department annually and at the conclusion of the monitoring period.

3. **Completion**. The restoration shall be considered successful after the success criteria have been met for a period of at least 3 years with no remediation or maintenance activities other than weeding.

I. **Review and Approval**. Mitigation programs, restoration plans, and monitoring programs shall to be reviewed and approved by a qualified professional pursuant to Section 21.50.070 (Environmental Review).

J. **Easements and Dedications**. Where onsite or offsite preservation of an ESHA, ~~ESHA buffer,~~ wetland, stream, or mitigation area and buffers to each is required as a condition of approval of a coastal development permit or other authorization, a guarantee of protection through direct dedication, offer to dedicate, or conservation easement shall be required. The protection guarantee shall identify the precise location and area to be set aside for preservation along with evidence of the legal ability over that area to restrict that area and/or convey a property interest in that area.

1. **Timing**. Prior to the approval of a coastal development permit, the method and form of the protection guarantee shall be approved by City Attorney. The protection guarantee shall be recorded in the office of the County Recorder prior to the issuance of any development permits.

2. **Management and Funding.** A management plan and funding plan shall be required to ensure appropriate management of the habitat area in perpetuity.

3. **Method of Protection Guarantee.** A method of access guarantee shall be chosen according to the following criteria:

   a. **Deed Restriction.** A deed restriction shall be used only where an owner, association or corporation agrees to assume responsibility for maintenance of and liability for the habitat area, subject to approval by the ~~Director~~ reviewing authority.

   b. **Grant of Fee Interest or Easement.** A grant of fee interest or easement shall be used when a public agency or private organization approved by the ~~City Council~~ reviewing authority is willing to assume ownership, maintenance and liability for the habitat.

   c. **Offer of Dedication.** An offer of dedication shall be used when no public agency, private organization or individual is willing to accept fee interest or easement for habitat maintenance and liability. These offers shall not be accepted until maintenance responsibility and liability is established.

4. **Inventory**. The City shall maintain an inventory of open space deed restrictions, dedications of lands or easements~~or~~ and offers to dedicate to ensure such areas are known to the public and are protected through the coastal development permit process.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

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Chapter 21.30C – Harbor and Bay Regulations

Sections:

21.30C.010 Purpose
21.30C.020 Applicability
21.30C.030 General Provisions
21.30C.040 Vessel Berthing and Storage
21.30C.050 Harbor Development Regulations
21.30C.060 Harbor Development Permits
21.30C.070 Dredging Permits

21.30C.010 – Purpose

This Chapter provides regulations and procedures for development and uses within the Harbor and other tidelands and submerged lands.

21.30C.020 – Applicability

This Chapter applies to development on and within Newport Harbor waters and all tidelands and submerged lands. Where these tidelands and submerged lands remain within the Coastal Commission's area of retained coastal development permit jurisdiction (per Section 30519(b) of the Coastal Act), the policies of Chapter 3 of the Coastal Act remain the standard of review and these regulations will serve as guidance. ~~under the jurisdiction of the City of Newport Beach, except where otherwise provided in this Chapter.~~

21.30C.030 – General Provisions

A. **Establishment of Channels and Harbor Lines.** All channels, turning basins, anchorage areas, and Project, Pierhead, and Bulkhead Lines in Newport Harbor shall be as established by the Federal Government or by the City Council upon recommendation of the Harbor Commission. A map thereof shall be kept on file in the offices of the City Clerk and the Harbor Resources Division for public inspection.

B. **Review of Applications.** Harbor development permit applications shall be reviewed by the Harbor Resources Division and Building Division to insure conformity with the policies of the Coastal Land Use Plan. Coastal development permit applications shall be reviewed by the Coastal Commission to insure conformity with the policies of Chapter 3 of the Coastal Act.

21.30C.040 – Vessel Berthing and Storage

A. **Anchorage and Mooring Location**. No person having charge of any vessel shall berth or anchor the same in Newport Harbor except within the designated areas. In the designation of mooring areas and anchorage areas, consideration shall be given to the needs of commerce, the utilization of turning basins, the use of channels for navigation,

and the economy of space.

B. **Vessel Condition.** Vessels assigned must be maintained in an operable and seaworthy condition.

21.30C.050 – Harbor Development Regulations

A. **Protection of Coastal Access and Resources.** All harbor structures, including remodels of, ~~and~~ additions to, or replacement of existing structures, and new structures, shall be designed and sited so as not to obstruct public ~~lateral~~ access and to minimize impacts to coastal views and coastal resources.

B. **Protection of Vessel Launching Facilities.** Existing vessel-launching shall be protected, unless replaced with facilities with equal or greater vessel-launching capabilities.

C. **Appearance.** All structures permitted to encroach into open coastal waters, wetlands, and estuaries shall be designed and sited to harmonize with the natural appearance of the surrounding area.

D. **Eelgrass and Marine Habitat Protection.** ~~The use of materials in pier~~ Pier, pier platform, gangway and dock ~~construction~~ design~~,~~ shall be designed and sited and make use of materials ~~and methods shall consider minimal~~ that will minimize and, where feasible, avoid impacts to eelgrass and marine habitat. Where possible, design structures to avoid any net increase in overall water coverage, and wherever possible reduce the overall water coverage.

E. **Docking Facilities.** Docking facilities shall be designed and sited in relationship to the water's depth and accessibility.

F. **Pollution Control.** The permittee shall maintain the area delineated on the harbor development permit free and clear from beached or floating rubbish, debris or litter at all times. Adequate safeguards shall be maintained by the permittee to avert any other type of pollution of Newport Harbor from recreational and/or commercial use of the tidelands.

G. **Piers.**

1. **Limits on Use.** Only piers, floats and patio decks and their appurtenances pursuant to subsection (G) (5) of this section shall be permitted bayward of the bulkhead.

2. **Street Ends.** No private piers shall be permitted at street ends.

3. **Setbacks.**

a. All piers and slips for residential properties shall be set back a minimum of five feet from the prolongation of the property line.

b. With the prior approval of the City, piers and slips for commercial properties may extend past the prolongation of the property line.

c. The prolongation of the property line bayward of the same bearing from the bulkhead shall generally be used in determining the allowable setbacks for piers and slips. Because there are certain physical conditions which preclude the strict application of this policy without prejudice to adjoining properties, special consideration will be given to areas where precise prolongation of the property line has not been determined and the following conditions exist:

(1) Where property lines are not approximately perpendicular to the bulkhead line;

(2) Where curves or angles exist in the bulkhead line;

(3) Where bridges, topography, street ends or publicly owned facilities adjoin the property.

d. Setbacks apply to joint ownership piers with the exception that the slips, floats and piers may extend over the common property line.

4. **Joint Ownership.** Permits may be granted for joint ownership piers at the prolongation of common lot lines. The permit for joint ownership piers shall provide that all parties shall have equal rights under the permit and shall be held jointly responsible for compliance with all rules, regulations, and conditions set forth in the permit.

5. **Patio Decks.** Patios are not permitted to extend over the waters of Newport Harbor unless the waters are adjacent to the upland property and outside the areas described in the tidelands trust, and provided the patio complies with the following conditions:

a. The maximum projection of patio decks encroachments beyond the bulkhead line shall be limited to five feet.

b. The minimum setbacks from the prolongations of the side property lines shall be five feet.

c. No float shall be permitted within one foot of the decks.

d. No permanent structure shall be permitted on the projecting portion of the patios except:

(1) Planters and benches not over sixteen (16) inches in height;

(2) Railings not over forty-two (42) inches in height with approximately ninety-five (95) percent open area.

e. A harbor and building permit has been obtained.

6. **Storage Lockers.** Storage lockers and boat boxes may be installed on shore-connected piers and floats subject to the following limitations:

a. The overall height shall not exceed thirty (30) inches when located bayward of residential property zones.

b. The overall height shall not exceed thirty (30) inches when located bayward of commercial and industrial property zones where the piers and floats are used primarily for the mooring of pleasure boats.

c. The overall height shall not exceed sixty (60) inches when located on facilities bayward of commercial and industrial zoned property where the use is not primarily for the mooring of pleasure boats.

d. The overall height shall be measured from the deck of the pier or float to the top of the storage locker and overall height to include the enclosed portion of the locker or box.

H. **Other Structures.**

1. **Race Committee Platforms.** Race committee platforms and instruction platforms may be constructed bayward of the bulkhead line at recognized yacht clubs and recognized sailing schools. All work shall require issuance of a Harbor Development Permit.

2. **Floating Dry Docks.** Permits for non-residential floating dry docks may be approved by the Harbor Resources Division, subject to the following conditions:

a. The location is in waters bayward of commercial, manufacturing or unclassified zones;

b. The prior approval of a Harbor Use Permit by the Harbor Commission;

c. Permits for floating dry docks are issued for one location only. A new permit must be obtained to move a floating dry dock from one location to another location within the harbor.

I. **Bulkheads.**

1. All bulkheads ~~in residential districts~~ shall be installed ~~on the~~ within established bulkhead lines or at a location behind the bulkhead line that would preserve the design profile of the harbor. Any retaining or ornamental wall installed landward of the bulkhead line shall be considered a bulkhead if it also serves to contain the waters of the harbor and shall be processed in the same manner as if it were on the bulkhead line. The establishment of bulkhead lines does not necessarily allow the property owner to build to the limits of the bulkhead line, due to the potential environmental considerations established by the State of California and/or the Federal Government.

The Harbor Resources Division may approve bulkheads located between U.S. Bulkhead Station Nos. 112 and 109, not to exceed the bayward side of the "Vacated East Bay Avenue." U.S. Bulkhead Station No. 104 for the addresses at 2209, 2223, 2227, 2231 and 2233 Bayside Drive: staff recommendation for a

bulkhead at these properties shall not exceed a point bayward of the average high tide line established at a point forty (40) feet landward of the face of the bulkhead at the property at 2137 Bayside Drive, and then on a straight line from that point to the bayward most point of the bulkhead at the property at 2301 Bayside Drive.

2. Bulkheads shall be designed and sited to protect the character of the existing shoreline profiles and avoid encroachment onto public tidelands.

3. Maintenance or replacement of existing bulkheads is permitted when expansion or encroachment into coastal waters is limited to the minimum extent necessary to repair, maintain, or replace an existing bulkhead and the backfill is not used to create new usable residential land areas.

21.30C.060 – Harbor Development Permits

A. **Application.** ~~The~~ Harbor development permit applications, ~~and~~ plans and specifications shall be reviewed by the Harbor Resources Division and Building Division to determine whether the proposed work meets all the requirements of ~~this Implementation Plan~~ the Local Coastal Program and any standards and policies adopted by the City Council for such construction or work.

B. **Approval in Concept**. An approval in concept of the proposed development pursuant to Section 21.52.015 (Coastal Development Permits) shall be issued by the City prior to application to the Coastal Commission for a coastal development permit for any development located in the Coastal Commission's area of retained jurisdiction.

~~B~~C. **Approval by Other Agencies.**

1. **Coastal Commission.** Proof of prior approval, when applicable, from the California Coastal Commission shall be required before ~~issuing any permit~~ before any development may commence.

2. **U.S. Army Corps of Engineers.** Proof of prior approval of the U.S. Corps of Engineers will be required.

3. **County of Orange.** Proof of prior approval ~~of~~ and/or lease agreement from the County of Orange will be required when work extends over County tidelands.

~~4. **Approval in Concept.** All development in areas where the Coastal Commission retains coastal development permit authority shall require an approval in concept pursuant to Section 21.52.015 (Coastal Development Permits) prior to application to the Coastal Commission.~~

~~C~~D. **Rendering of Decision.**

1. Approval. The Department is authorized to approve and issue new harbor development permits and revisions to existing harbor development permits that conform to the design criteria and all applicable standards and policies in conjunction with plan reviews by the Harbor Resources Division.

2. The application shall be denied if:

a. The application does not conform to the provisions of this Implementation Plan; or

b. The proposed application is likely to create navigational congestion, or otherwise interfere with the rights of other harbor permittees within Newport Harbor, or other oceanfront property owners.

c. The proposed application does not conform to the policies and regulations of the Local Coastal Program.

~~D~~E. **Harbor Development Permit Conditions.**

1. In granting any such application, the Harbor Resources Manager shall issue the harbor development permit to the owner or long-term lessee of the abutting upland property and may impose conditions in the permit which are deemed necessary to protect commerce, navigation or fishing, or the use, operation or development of Newport Harbor.

2. ~~When appropriate where projects involve construction on or near the waterway, e~~Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys shall be required as a condition of City approval of projects in the Newport Bay. The Southern California Caulerpa Action Team (SCCAT) shall be immediately notified if *Caulerpa taxifolia* is found.

21.30C.070 – Dredging Permits

A. **Permit Required.**

1. Dredging bayward of residential and commercial property shall be the responsibility of the harbor permittee for the area delineated by the bayward prolongations of upland side property lines and the U.S. project line. All such dredging will require a dredging permit from the Harbor Resources Division and other approvals from agencies with jurisdictional authority and may be subject to engineering approval by the Public Works Department.

2. Dredging outside the established harbor lines will require prior approval by the Harbor Resources Division and the U.S. Army Corps of Engineers.

B. **Required Materials.** Applications shall be accompanied by all plans, maps, and other materials required by the prescribed forms, unless specifically waived by the Harbor Resources Manager. Applications shall include the following:

1. Authorization to proceed from the Coastal Commission and the U.S. Army Corps of Engineers;

2. Eelgrass (*Zostera marina*) and *Caulerpa taxifolia* protocol surveys;

3. Grain size analysis;

4. Identification of the dredge disposal site and dredge quantities;

5. Any other materials the Harbor Resources Manager deems necessary to support the application.

C. **Limits on Development.** Development involving the diking, filling, or dredging of open coastal waters, wetlands, or estuaries shall only be permitted under the following circumstances:

1. Only if there is no feasible, less environmentally damaging alternative.

2. If there is no feasible, less environmentally damaging alternative, mitigation measures shall be provided to minimize adverse environmental effects.

3. Dredged materials suitable for beneficial reuse shall be transported for such purposes to appropriate areas and placed in a manner that minimizes adverse effects on the environment.

   The permittee shall be encouraged to work with the City in making sure materials are available for harbor beach replenishment.

4. Diking, filling or dredging projects shall sustain the functional capacity of the wetland, or estuary. In order to establish that the functional capacity is being maintained, the applicant must demonstrate all of the following:

   a. That the project does not alter presently occurring plant and animal populations in the ecosystem in a manner that would impair the long-term stability of the ecosystem; i.e., natural species diversity, abundance, and composition are essentially unchanged as a result of the project;

   b. That the project does not harm or destroy a species or habitat that is rare or endangered;

   c. That the project does not harm a species or habitat that is essential to the natural biological functioning of the wetland or estuary;

   d. That the project does not significantly reduce consumptive (e.g., fishing, aquaculture and hunting) or nonconsumptive (e.g., water quality and research opportunity) values of the wetland or estuarine ecosystem.

5. Dredging and dredged material disposal shall avoid significant disruption to marine and wildlife habitats and water circulation.

C. **Limits on Development and Uses.** Development involving diking, filling, or dredging of open coastal waters, wetlands, and estuaries shall be limited to uses consistent with the Section 30233 of the California Public Resources Code (Coastal Act) and Section 21.30B.040 (Allowed Activities and Uses).

Chapter 21.34 – Conversion or Demolition of Affordable Housing

Sections:

21.34.010 Purpose
21.34.020 Applicability
21.34.030 Exemptions
21.34.050 Replacement of Affordable Housing

21.34.010 – Purpose

The purpose of this chapter is to:

A. Be consistent with and implement the provisions of the Mello Act (Government Code Section 65590); and

B. Maintain the number of low- and moderate-income dwelling units within the Coastal Zone.

21.34.020 – Applicability

The provisions of this chapter shall apply to the conversion or demolition of existing residential dwelling units within the Coastal Zone occupied by persons or families of low or moderate income ("affordable units"), as defined in Health and Safety Code Section 50093, when either of the following occurs:

A. The conversion or demolition of eleven (11) or more dwelling units located in two or more structures; or

B. The conversion or demolition of three or more dwelling units located in one structure.

21.34.030 – Exemptions

The provisions of this chapter shall not apply to the following:

A. **Demolition of a Public Nuisance.** The demolition of a residential structure that has been declared a public nuisance; or

B. **Replacement with a Coastal-Dependent or Coastal-Related Use.** The conversion or demolition of a residential structure for purposes of a coastal-dependent or coastal-related use; or

C. **Land Availability.** The conversion or demolition of a residential structure when there are less than fifty (50) acres, in aggregate, of privately owned, vacant land available for

residential use within the City's Coastal Zone or within three miles inland of the Coastal Zone.

21.34.050 – Replacement of Affordable Housing

A. **One for One Replacement.** If the Director determines that the proposed conversion or demolition activities involve affordable dwelling units, replacement of the affordable dwelling units shall be provided on a one for one basis, unless the Director determines that replacement is not feasible.

B. **Location of Replacement Units.** Replacement dwelling units shall be located on the site of the converted or demolished structure(s) or elsewhere within the Coastal Zone if feasible. If location on the site or elsewhere within the Coastal Zone is not feasible, the replacement units shall be located within three miles of the Coastal Zone.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

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Chapter 21.35 – Water Quality Control

Sections:

21.35.010 Overview of Water Quality Protection Plans
21.35.020 Information about Existing Project Site Conditions
21.35.030 Construction Pollution Prevention Plan
21.35.040 Post-Development Runoff Plan
21.35.050 Water Quality and Hydrology Plan

21.35.010 – Overview of Water Quality Protection Plans

Development that requires a coastal development permit and has the potential for adverse water quality or hydrologic (i.e., due to changes in runoff flows) impacts to coastal waters shall in most cases require both a construction-phase plan and a post-development plan for water quality protection. The water quality protection plans are summarized as follows:

A. **Construction-Phase Plan.**

1. **Construction Pollution Prevention Plan**. A Construction Pollution Prevention Plan (CPPP; see Section 21.35.030, below) shall be required for development that requires a coastal development permit and entails construction that has the potential for adverse water quality or hydrologic impacts to coastal waters. For the purposes of this section, construction includes clearing, grading, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces. The CPPP shall describe the temporary Best Management Practices (BMPs) the development will implement to minimize erosion and sedimentation during construction, and to minimize pollution of runoff and coastal waters by construction chemicals and materials.

B. **Post-Development Plans.** Development may require one of two post-development water quality protection plans:

1. **Post-Development Runoff Plan.** A Post-Development Runoff Plan (PDRP; see Section 21.35.040, below) shall be required for development that requires a coastal development permit and has the potential for adverse post-development water quality or hydrologic impacts to coastal waters. If the development entails activities or changes in land use other than construction (as defined in Subsection 21.35.010 (A) (1), above), including subdivision or re-division of land, the scope of the plan may be reduced accordingly. The PDRP shall describe the runoff management Site Design strategies, pollutant Source Control BMPs, and other measures the development will implement to protect coastal waters after the development is completed.

2. **Water Quality and Hydrology Plan.** A Water Quality and Hydrology Plan (WQHP; see Section 21.35.050, below) shall be required for development that requires a coastal development permit, has the potential for adverse water quality or hydrologic impacts to coastal waters, and is a Development of Water Quality Concern (see Subsection 21.35.050 (A), below). Developments of Water Quality Concern are specified categories of development that have a greater potential for adverse water quality and hydrologic impacts due to the development's size, type of land use, and/or proximity to coastal waters.

   The WQHP shall be prepared by a qualified licensed professional, and shall include a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a Low Impact Development (LID) approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of proposed BMPs. Additional plan components that may be required include an alternatives analysis, and a description of the Treatment Control and/or Runoff Control BMPs the development will implement to minimize potential post-development water quality and hydrologic impacts.

21.35.020 – Information about Existing Project Site Conditions

In addition to the required content for each water quality protection plan specified in Sections 21.35.030 – 21.35.050, below, the following information about the existing project site conditions shall be submitted, if applicable to the project, to enable evaluation of the project's potential water quality and hydrologic impacts:

A. **Location Map.** A location map, drawn to scale, showing the location of the development, and the distance from the development to the nearest coastal waters and other natural hydrologic features.

B. **Description of Existing Project Site Conditions.** A site plan that illustrates and describes the following existing project site conditions:

1. **Topography and Drainage.** General site topography and drainage, including natural hydrologic features that may provide stormwater infiltration, treatment, storage, or conveyance (such as groundwater recharge areas, stream corridors, floodplains, and wetlands), and any existing structural stormwater conveyances or BMPs.

2. **Nearby Coastal Waters and ESHA.** Location of coastal waters and Environmentally Sensitive Habitat Areas (ESHA) within two hundred (200) feet of the project site, indicating whether site runoff drains to these areas.

3. **Discharges to Impaired Waters or ASBS.** Whether runoff discharges to receiving waters listed for water quality impairment on the most recent Clean Water Act Section 303(d) list, or to an Area of Special Biological Significance (ASBS).

4. **Structures and Pavement.** Existing structures, impervious surface areas, permeable pavements, utilities, and vegetated areas. An accompanying table shall quantify the extent of such areas.

5. **Potential Contamination.** Any previous land use on the site with a potential for a historic source of contamination, and any known soil or water contamination.

21.35.030 – Construction Pollution Prevention Plan

The Construction Pollution Prevention Plan (CPPP) shall describe the temporary BMPs the development will implement to minimize erosion and sedimentation during construction, and to minimize pollution of runoff and coastal waters by construction chemicals and materials. The level of detail provided to address the plan's requirements shall be commensurate with the type and scale of the development, and the potential for adverse water quality and hydrologic impacts to coastal waters.

A. **Applicability of Construction Pollution Prevention Plan.** A CPPP shall be required for development that requires a coastal development permit and entails construction that has the potential for adverse water quality or hydrologic impacts to coastal waters. For the purposes of this section, construction includes clearing, grading, or other activities that involve ground disturbance; building, reconstructing, or demolishing a structure; and creation or replacement of impervious surfaces.

To comply with the California State Water Resources Control Board (SWRCB) stormwater permit requirements, an applicant proposing certain size or types of development, including industrial facilities, may be required to develop and implement a Stormwater Pollution Prevention Plan (SWPPP) that addresses construction activities. Applicants submitting a SWPPP to meet SWRCB requirements shall also submit a CPPP to meet the City's LCP requirements for review of a coastal development permit application. Applicable information provided in the SWPPP may also be included as part of the CPPP.

B. **Submittal of Construction Pollution Prevention Plan.** An applicant shall submit a preliminary CPPP (based on site conditions and project features known at the time of application) with the coastal development permit application, and shall submit a final CPPP for approval prior to construction. The information provided to address the plan's requirements may be submitted as a stand-alone document, or incorporated into the other permit application materials. Any changes to the final CPPP after issuance of the coastal development permit shall be subject to additional authorization by the Director.

C. **Requirements of Construction Pollution Prevention Plan.** The CPPP shall demonstrate that the development complies with the following requirements:

1. **Minimize Erosion, Pollutant Discharge, and Non-Stormwater Runoff.** During construction, development shall minimize erosion, the discharge of sediment and other pollutants, and non-stormwater runoff resulting from construction activities, through the use of temporary BMPs.

Development shall implement the following types of construction-phase BMPs, as applicable to the project:

a. **Erosion and Sediment Control BMPs.** BMPs to minimize soil erosion and the discharge of sediment off-site or to coastal waters, including:

(1) Erosion control BMPs to prevent soil from being eroded by water or wind (such as mulch, soil binders, blankets or mats, or temporary seeding).

(2) Sediment control BMPs to trap and remove eroded sediment (such as fiber rolls, silt fences, straw bales, and sediment basins).

(3) Tracking control BMPs to prevent vehicles leaving the construction area from tracking sediment off-site (such as a stabilized construction exit, and street sweeping).

b. **Pollutant Control BMPs.** BMPs to minimize the discharge of other pollutants resulting from construction activities (such as chemicals, vehicle fluids, petroleum products, asphalt and cement compounds, trash, and debris) off-site or to coastal waters, including:

(1) Materials management and waste management BMPs to minimize the discharge of pollutants from staging, storage, and disposal of construction chemicals and materials (such as stockpile management practices, and a debris disposal plan).

(2) Site management "good housekeeping" BMPs to minimize the discharge of pollutants from construction activities (such as maintaining an inventory of chemicals used on site, and having a written plan for the clean-up of spills and leaks).

c. **Non-Stormwater Runoff Control BMPs.** BMPs to retain, infiltrate, or treat non-stormwater runoff resulting from construction activities (such as a concrete washout facility, dewatering tank, or dedicated vehicle wash area), to minimize the discharge of polluted runoff.

2. **Stabilize Soil as Soon as Feasible.** Soil stabilization BMPs (such as mulching, soil binders, erosion control blankets, or temporary seeding) shall be implemented on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to lead to discharge of sediment off-site or to coastal waters.

3. **Minimize Land Disturbance and Soil Compaction.** Development shall minimize land disturbance during construction (e.g., clearing, grading, and cut-and-fill) and shall phase grading activities, to avoid increased erosion and sedimentation. Development shall minimize soil compaction due to construction activities, to retain the natural stormwater infiltration capacity of the soil.

4. **Minimize Damage or Removal of Vegetation.** Development shall minimize the damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.

5. **Use Designated Fueling and Maintenance Areas.** Conduct fueling and maintenance of construction equipment and vehicles off-site, if feasible. Any

fueling and maintenance of mobile equipment conducted on-site shall take place at a designated area located at least fifty (50) feet from coastal waters, drainage courses, and storm drain inlets, if feasible (unless these inlets are blocked to protect against fuel spills). The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.

6. **Avoid Plastic Netting in Temporary Erosion and Sediment Control Products.** Development shall avoid the use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers), in order to minimize wildlife entanglement and plastic debris pollution.

7. **Use Additional BMPs for Construction Over, In, or Adjacent to Coastal Waters.** Development shall implement additional BMPs for construction taking place over, in, or adjacent to coastal waters (including wetlands), if there is a potential for construction chemicals or materials to enter coastal waters. BMPs shall include, where applicable:

   a. **Tarps to Capture Debris and Spills.** Use tarps or other devices to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills to protect the quality of coastal waters.

   b. **BMPS for Use of Preservative-Treated Wood in Aquatic Environments.** If preservative-treated wood is used, implement appropriate BMPs that meet industry standards for selection, storage, and construction practices for use of preservative-treated wood in aquatic environments. At a minimum, implement the standards identified by the Western Wood Preservers Institute, et al. in: *Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments* (2012, or current revision thereof).

   c. **Non-Petroleum Hydraulic Fluids.** Use non-petroleum hydraulic fluids in principal heavy equipment operated for one week or longer over, in, or adjacent to coastal waters (including wetlands and intertidal areas), if leaks or spills of hydraulic fluid from this equipment cannot be contained and could potentially enter coastal waters.

8. **Avoid Grading During Rainy Season.** Development shall avoid grading during the rainy season (from October 15th through May 15th), unless the Director determines one of the following:

   a. **Extension.** If the Director grants an extension for a specific length of time, based on an inspection of the site, and a determination that conditions at the project site are suitable for continued work with appropriate erosion and

sedimentation control measures that will be maintained during the activity; or

b. **Emergency.** If the Director allows grading under emergency conditions, and BMPs to protect coastal resources are implemented where feasible.

9. **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage construction-phase BMPs (including installation, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.

10. **Use Appropriate BMP Guidance Manual.** The selection of BMPs for the Construction Pollution Prevention Plan shall be guided by the current edition of the California Stormwater Quality Association (CASQA) Construction BMP Handbook, or by the current edition of a BMP manual that has been designed to address local or regional runoff conditions and has been approved by the South Coast Regional Water Quality Control Board.

D. **Content of Construction Pollution Prevention Plan.** To comply with the CPPP requirements listed in Subsection 21.35.030 (C), above, the CPPP shall include a construction site map and a narrative description addressing, at a minimum, the following required components, if they are applicable to the development:

1. **Construction Site Plan Map.** A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).

2. **Description of BMPs to be Implemented to Meet All CPPP Requirements.** A description of the BMPs that will be implemented to meet all the CPPP requirements listed in Subsection 21.35.030 (C), above, and how these BMPs will minimize pollution of runoff and coastal waters during construction. Include calculations that demonstrate proper sizing of the BMPs.

3**. Construction Phasing Schedule.** A construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.

4 **Schedule of BMP Installation and Construction Phasing**. A schedule for installation and removal of temporary erosion and sedimentation control BMPs, and identification of temporary BMPs that will be converted to permanent post-development BMPs.

5. **BMP Management Plan.** A description and schedule for the inspection, training, operation, and maintenance of construction-phase BMPs, including temporary erosion and sedimentation control BMPs, as needed to ensure that the coastal development permit's water quality requirements are met.

21.35.040 – Post-Development Runoff Plan

The Post-Development Runoff Plan (PDRP) shall describe the runoff management Site Design strategies, pollutant Source Control BMPs, and other measures the development will implement

to minimize stormwater pollution and changes in runoff flows from the site after development is completed, in order to protect and, where feasible, restore the quality of coastal waters. The level of detail provided to address the plan's requirements shall be commensurate with the type and scale of the project, and the potential for adverse water quality and hydrologic impacts to coastal waters.

A. **Applicability of Post-Development Runoff Plan.** A PDRP shall be required if the development requires a coastal development permit and has the potential for adverse post-development water quality or hydrologic impacts to coastal waters. If the development entails activities of changes in land use other than construction as defined in Subsection 21.35.010 (A) (1), above (e.g., allowing motorized vehicle use of a trail previously restricted to pedestrians), including subdivision or re-division of land, the scope of the plan may be reduced accordingly.

B. **Submittal of Post-Development Runoff Plan.** An applicant shall submit a preliminary PDRP (based on site conditions and project features known at the time of application) with the coastal development permit application, and shall submit a final PDRP prior to issuance of the coastal development permit. Any changes to the final PDRP after issuance of the coastal development permit shall be subject to additional authorization by the Director.

C. **Requirements of Post-Development Runoff Plan.** The PDRP shall demonstrate that the development complies with the following requirements:

1. **Address Runoff Management Early in Site Design Planning.** All development shall address runoff management early in site design planning and alternatives analysis, and shall implement appropriate and feasible Site Design strategies for runoff management.

   Site Design strategies for runoff management are project design and site layout techniques that integrate existing site characteristics that affect runoff (such as topography, drainage patterns, vegetation, soil conditions, natural hydrologic features, and infiltration conditions) into the design of strategies to minimize post-development changes in the runoff flow regime, control pollutant sources, and where necessary remove pollutants.

2. **Give Precedence to Low Impact Development Approach to Stormwater Management.** All development shall give precedence to the use of a Low Impact Development (LID) approach to stormwater management, to preserve the natural hydrologic functions of the site and minimize post-development changes in the site's runoff flow regime.

   LID emphasizes preventive Site Design strategies, integrated with small-scale, distributed BMPs that replicate the site's pre-development hydrologic balance through infiltration, evapotranspiration, harvesting for later on-site use, detention, or retention of stormwater close to the source. By reducing runoff, LID also reduces the transport of pollutants from the site.

   In implementing an LID approach, priority shall be given to the use of LID Site Design strategies (such as reducing impervious surface area) to minimize post-development changes in the site's stormwater flow regime, supplemented by

the use of structural LID BMPs (such as a bioretention system) if needed to mitigate any unavoidable changes in runoff flows. Use of LID Site Design strategies can reduce the volume of stormwater runoff generated, and thus reduce the need for and size of structural LID BMPs required.

LID Site Design strategies and BMPs include, but are not limited to, the following:

a. **Protect and Restore Natural Hydrologic Features.** Plan, site, and design development to protect and, where feasible, restore natural hydrologic features that provide stormwater infiltration, treatment, storage, or conveyance. Examples include:

(1) Preserve natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions that can provide storage of small storm volumes.

(2) Preserve natural stream corridors, rivers, and wetlands, and establish appropriate buffer areas.

b. **Preserve or Enhance Vegetation.** Plan, site, and design development to preserve or enhance non-invasive vegetation, in order to achieve water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control. Examples include:

(1) Minimize removal of natural non-invasive vegetation.

(2) Plant additional trees and other non-invasive vegetation, preferentially native plants.

c. **Maintain or Enhance On-Site Infiltration.** Plan, site, and design development to maintain or enhance on-site infiltration of runoff, where appropriate and feasible, in order to preserve natural hydrologic conditions, recharge groundwater, attenuate runoff flows, retain dry-weather runoff on-site, and minimize transport of pollutants. Examples include:

(1) Avoid building impervious surfaces on highly permeable areas. Cluster buildings and other impervious areas onto the site's least permeable soils.

(2) Minimize unnecessary soil compaction, which can greatly reduce the infiltrative capacity of soils. Amend soil if needed to enhance its infiltration and pollutant removal capacity.

(3) Install an infiltration/evapotranspiration BMP such as a bioretention system, vegetated swale, or rain garden.

d. **Minimize Impervious Surface Area.** Plan, site, and design development to minimize the installation of impervious surfaces (including pavement, sidewalks, driveways, patios, parking areas, streets, and roof-tops), in

order to reduce runoff. Where feasible, increase the area of pervious surfaces in re-development. Examples include:

(1) Downsize impervious coverage by minimizing the footprint of buildings and impervious pavement (such as a shorter driveway, narrower road, or smaller parking lot).

(2) Where pavement is required, install a permeable pavement system (e.g., interlocking concrete pavers, porous asphalt, permeable concrete, or reinforced grass or gravel), where appropriate and feasible. Design permeable pavements so that runoff infiltrates into a subsurface recharge bed and the underlying soil, if feasible, to reduce runoff, enhance groundwater recharge, and filter out pollutants.

e. **Disconnect Impervious Surface Areas from Storm Drain System.** Plan, site, and design development to minimize directly-connected impervious areas, which are areas covered by a building, impermeable pavement, or other impervious surfaces that drain directly into the storm drain system without first flowing across permeable areas (such as vegetative landscaping). Convey runoff from impervious surfaces into permeable areas in a non-erosive manner. Examples include:

(1) Direct roof-top runoff into permeable landscaped areas.

(2) Direct runoff from impervious pavement into distributed permeable areas such as turf, recreational areas, medians, parking islands, and planter boxes.

(3) Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration.

(4) Install an infiltration BMP such as a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces.

(5) Install a rainwater harvesting BMP, such as a rain barrel or cistern, to capture and store roof-top runoff for later use in on-site irrigation.

3. **Use Alternative BMPs Where On-Site Infiltration is Not Appropriate.** If on-site infiltration of runoff may potentially result in adverse impacts (including, but not limited to, geologic instability, flooding, or pollution of coastal waters), the development shall substitute alternative BMPs that do not involve on-site infiltration, to minimize changes in the runoff flow regime to the extent appropriate and feasible. Alternative BMPs shall also be used where infiltration BMPs are not adequate to treat a specific pollutant of concern attributed to the development, or where infiltration practices would conflict with regulations protecting groundwater. Examples of alternatives to infiltration BMPs include:

a. **Install Green Roof or Flow-through Planter.** Install a vegetated "green roof" or flow-through planter box that does not infiltrate runoff into the ground, and instead uses evapotranspiration to reduce runoff.

b. **Install Rainwater Harvesting System.** Install a rainwater harvesting system (such as a rain barrel or cistern) to capture and store roof-top runoff for later on-site use of non-potable water that drains to the sanitary sewer or storm drain system (such as flushing toilets).

c. **Direct Runoff to Off-site Infiltration Facility.** Direct runoff from the development to an off-site regional infiltration facility.

d. **Direct Runoff to Storm Drain System.** If appropriate and feasible BMPs have been implemented to reduce runoff volume, velocity, and flow rates, direct runoff to the storm drain system.

4. **Use Source Control BMPs.** All development shall implement appropriate and feasible long-term, post-development pollutant Source Control BMPs to minimize the transport of pollutants in runoff from the development.

Source Control BMPs are structural features or operational practices that control pollutant sources and keep pollutants segregated from runoff. Examples include covering outdoor storage areas, using efficient irrigation, proper application and clean-up of potentially harmful chemicals and fertilizers, and proper disposal of waste.

5. **Address Runoff from Impervious and Semi-Pervious Surfaces.** Runoff from all new and/or replaced impervious and semi-pervious surfaces shall be addressed in the plan. For sites where the area of new and/or replaced impervious and semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, runoff from the entire developed area, including the pre-existing surfaces, shall be addressed in the plan.

6. **Prevent Adverse Impacts to Environmentally Sensitive Habitat Areas from Runoff.** In areas in or adjacent to an Environmentally Sensitive Habitat Area (ESHA), development shall be planned, sited, and designed to protect the ESHA from any significant disruption of habitat values resulting from the discharge of stormwater or dry weather flows.

7. **Minimize Discharges of Dry Weather Runoff to Coastal Waters.** Development shall be planned, sited, and designed to minimize discharges of dry weather runoff to coastal waters, to the maximum extent feasible. Examples include:

a. **Use Efficient Irrigation.** Use efficient irrigation techniques that minimize off-site runoff.

b. **Design Vehicle Washing Areas to Minimize Runoff.** Design vehicle washing areas so that wash water is conveyed to an infiltration system, recycling system, or sanitary sewer system, to minimize off-site runoff.

8. **Minimize Adverse Impacts of Discharges from Stormwater Outfalls.** Development shall be planned, sited, and designed to avoid the adverse impacts of discharging concentrated flows of stormwater or dry weather runoff through stormwater outfalls to coastal waters, intertidal areas, beaches, bluffs, or stream banks.

Development shall comply with the following requirements:

a. **Avoid Construction of New Stormwater Outfalls.** Avoid construction of new stormwater outfalls, and direct stormwater to existing facilities with appropriate treatment and filtration, where feasible.

b. **Minimize Adverse Impacts to Coastal Resources from Unavoidable Stormwater Outfalls.** Where new development or redevelopment of a stormwater outfall that discharges directly to coastal waters, intertidal areas, beaches, bluffs, or stream banks cannot be avoided, plan, site, design, and manage outfalls to minimize adverse impacts to coastal resources.

To minimize adverse impacts, development shall:

(1) Consolidate existing and new stormwater outfalls, where appropriate.

(2) Implement design and management features to minimize discharges of dry weather runoff through stormwater outfalls.

(3) Implement design and management features to minimize adverse impacts to coastal resources resulting from discharges of stormwater or dry weather runoff through stormwater outfalls.

9. **Prevent Erosion at Stormwater Outlets.** Protective measures shall be used to prevent erosion at stormwater outlets (including outlets of pipes, drains, culverts, ditches, swales, or channels), if the discharge velocity will be sufficient to potentially cause erosion from concentrated runoff flows.

The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity:

a. **Use Vegetative Bioengineered Measures.** Vegetative bioengineered measures for outlet protection (such as plant wattles) shall be given preference, rather than hardened structures, where site conditions are favorable for these measures to be feasible and effective. Where plant wattles are not feasible, other bioengineered measures (such as rock and plant pole cuttings) shall be considered for outlet erosion prevention.

b. **Use Hardened Structure Consisting of Loose Material.** Where a vegetative bioengineered measure is not feasible or effective, a hardened structure consisting of loose material (such as a rip-rap apron or rock slope protection) shall be considered for outlet erosion prevention.

c. **Use Fixed Energy Dissipation Structure.** Where none of the above measures would be feasible or effective, a fixed energy dissipation structure (such as a concrete apron, grouted rip-rap, or baffles) designed to handle the range of flows exiting the outlet shall be used for outlet erosion prevention. It is anticipated that larger outlets will require a fixed energy dissipation structure.

10. **Manage BMPs for Life of Development.** Appropriate protocols shall be implemented to manage post-development BMPs (including ongoing operation, maintenance, inspection, and training) in all development, to protect coastal water quality for the life of the development.

11. **Use Appropriate BMP Guidance Manual.** The selection of BMPs for the Post-Development Runoff Plan shall be guided by the current edition of the California Stormwater Quality Association (CASQA) BMP Handbooks, or by the current edition of a BMP manual that has been designed to address local or regional runoff conditions and has been approved by the South Coast Regional Water Quality Control Board.

D. **Content of Post-Development Runoff Plan.** To comply with the PDRP requirements listed in Subsection 21.35.040 (C), above, the PDRP shall include a site plan and a narrative description addressing, at a minimum, the following required components, if they are applicable to the development:

1. **PDRP Site Plan.** A site plan showing post-development structural BMPs, stormwater conveyances and discharges, structures, pavements, and utilities, with contour intervals appropriate to identify post-development topography, finished grades, and drainage patterns.

2. **Identification of Pollutants Potentially Generated.** Identification of pollutants potentially generated by the proposed development that could be transported off the site by runoff.

3. **Estimate of Changes in Impervious and Semi-Pervious Surface Areas.** An estimate of the proposed changes in impervious surface area on the site, including pre-project and post-project impervious coverage area and the percentage of the property covered with impervious surfaces. Include an estimate of the proposed changes in the amount of directly-connected impervious areas, which drain directly into the storm drain system without first flowing across permeable areas. Also include an estimate of changes in site coverage with permeable or semi-permeable pavements.

4. **Description of BMPs to be Implemented to Meet All PDRP Requirements.** A description of the BMPs that will be implemented to meet all the PDRP requirements listed in Subsection 21.35.040 (C), above, and how these BMPs will minimize stormwater pollution and post-development changes in runoff flows from the development.

5. **Description of Low Impact Development Approach to Stormwater Management to be Implemented.** A description of the Low Impact Development

(LID) approach to stormwater management (see Subsection 21.35.040 (C) (2), above) that will be implemented, or a justification if an LID approach is not selected.

6. **BMP Installation or Implementation Schedule.** A schedule for installation or implementation of all post-development BMPs.

7. **Description of BMP Management.** A description of the ongoing management of post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, as needed for the BMPs to function properly.

21.35.050 – Water Quality and Hydrology Plan

A Water Quality and Hydrology Plan (WQHP) shall be required for Developments of Water Quality Concern (see Subsection (A) of this section), which are specified categories of development that have a greater potential for adverse water quality and hydrologic impacts due to the development size, type of land use, and/or proximity to coastal waters. The WQHP shall be prepared by a qualified licensed professional, and shall include a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. Additional plan components that may be required include an alternatives analysis, and a description of the Treatment Control and/or Runoff Control BMPs the development will implement to minimize potential post-development water quality and hydrologic impacts.

A. **Applicability of Water Quality and Hydrology Plan.** A WQHP shall be required for a Development of Water Quality Concern that requires a coastal development permit and has the potential for adverse water quality or hydrologic impacts to coastal waters, including development that (1) entails construction (as defined in Subsection 21.35.010 (A), above), or (2) entails activities or changes in land use other than construction.

Developments of Water Quality Concern shall include the following categories:

1. **Residential.** Residential development that creates and/or replaces five or more dwelling units.

2. **Hillside.** Hillside development on a slope greater than fifteen (15) percent, on a site with erodible soil.

3. **75% Impervious Surface Area.** Development where seventy-five (75) percent or more of the site's surface area will be impervious surfaces.

4. **10,000 Sq. Ft. Impervious Surface Area.** Development that creates and/or replaces a cumulative site total of ten thousand (10,000) square feet or more of impervious surface area.

5. **Parking Lot.** Development of a parking lot that creates and/or replaces a cumulative site total of five thousand (5,000) square feet or more of impervious surface area that may potentially contribute to stormwater runoff.

6. **Vehicle Service Facility.** Development of a vehicle service facility, including a retail gasoline outlet, commercial car wash, or vehicle repair facility.

7. **Street, Road, or Highway Facility.** Development of a street, road, or highway facility that creates and/or replaces a cumulative site total of five thousand (5,000) square feet or more of impervious surface area.

8. **Restaurant.** Development of a restaurant that creates and/or replaces a cumulative site total of five thousand (5,000) square feet or more of impervious surface area.

9. **Outdoor Storage Area.** Development of a commercial or industrial outdoor storage area that creates and/or replaces a cumulative site total of five thousand (5,000) square feet or more of impervious surface area (or an area determined by the Director based on the use of the storage area), where used for storage of materials that may potentially contribute pollutants to coastal waters or the storm drain system.

10. **Commercial or Industrial Development Generating a High Pollutant Load.** Commercial or industrial development with a potential for generating a high pollutant load that may potentially enter coastal waters or the storm drain system.

11. **Contaminated Soil.** Development on land where the soil has been contaminated by a previous land use, and where the contaminated soil has the potential to be eroded or to discharge the contaminants into runoff or coastal waters.

12. **Near or Discharges Directly to Coastal Waters.** Development that creates and/or replaces a cumulative site total of two thousand five hundred (2,500) square feet or more of impervious surface area, if the development is located within one hundred (100) feet of coastal waters (including the ocean, estuaries, wetlands, rivers, streams, and lakes) or discharges directly to coastal waters (i.e., does not discharge to a public storm drain system).

13. **Other.** Any other development determined by the Director to be a Development of Water Quality Concern.

B. **Submittal of Water Quality and Hydrology Plan.** An applicant shall submit a preliminary WQHP (based on site conditions and project features known at the time of application) with the coastal development permit application, and shall also submit a final WQHP prior to issuance of the coastal development permit. Any changes to the final WQHP after issuance of the coastal development permit shall be subject to additional authorization by the Director.

C. **Requirements of Water Quality and Hydrology Plan.** The WQHP shall demonstrate that a Development of Water Quality Concern complies with the following requirements:

1. **Prepare Plan by Qualified Licensed Professional.** A California-licensed professional (e.g., Registered Professional Civil Engineer, Geotechnical Engineer, Geologist, Engineering Geologist, Hydrogeologist, or Landscape Architect) qualified to complete this work shall be in responsible charge of preparing the Water Quality and Hydrology Plan for a Development of Water Quality Concern.

2. **Conduct Polluted Runoff and Hydrologic Site Characterization.** A polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers) shall be conducted, as necessary to design the proposed BMPs.

3. **Address Runoff from Impervious and Semi-Pervious Surfaces.** Runoff from all new and/or replaced impervious and semi-pervious surfaces shall be addressed in the plan. For sites where the area of new and/or replaced impervious and semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, runoff from the entire developed area, including the pre-existing surfaces, shall be addressed in the plan.

4. **Size LID, Runoff Control, and Treatment Control BMPs Using 85th Percentile Design Storm Standard.** Any LID, Runoff Control, or Treatment Control BMP (or suite of BMPs) implemented to comply with WQHP requirements shall be sized, designed, and managed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.

5. **Use LID Approach to Retain Design Storm Runoff Volume On-Site.** The development shall implement an LID approach to stormwater management that will retain on-site (by means of infiltration, evapotranspiration, or harvesting for later on-site use) the runoff volume produced by the 85th percentile 24-hour design storm (see Subsection (C) (4) of this section), to the extent appropriate and feasible.

6. **Conduct Alternatives Analysis if Design Storm Runoff Volume Will Not be Retained On-Site Using LID Approach.** If the proposed development will not retain on-site the runoff volume produced by the 85th percentile 24-hour design storm (Subsection (C) (4) of this section) using an LID approach, an alternatives analysis shall be conducted. The alternatives analysis shall demonstrate that:

    a. **There are No Feasible Alternative Project Designs.** Demonstrate that there are no appropriate and feasible alternative project designs (such as a reduced project footprint) that would enable on-site retention of the runoff volume produced by the 85th percentile 24-hour design storm, giving precedence to an LID approach.

    b. **On-Site Runoff Retention is Maximized.** Demonstrate that on-site runoff retention is maximized to the extent appropriate and feasible, giving precedence to an LID approach.

    c. **Feasibility of Off-Site Runoff Retention is Considered.** If Subsection (C) (6) (a) and (b) of this section, above, are demonstrated, some or all of the runoff volume produced by the 85th percentile 24-hour design storm may be retained off-site, if it is demonstrated that off-site options will feasibly contribute to meeting the development's runoff retention and treatment requirements.

7. **Use Treatment Control BMPs to Remove Pollutants if Necessary.** Treatment Control BMPs are structural systems designed to remove pollutants from runoff by processes such as gravity settling of particulate pollutants, filtration, biological uptake, media adsorption, or other physical, biological, or chemical process. Examples include vegetated swales, detention basins, and storm drain inlet filters.

   The following applicability and performance standards shall be required for Treatment Control BMPs:

   a. **Use Treatment Control BMPs to Remove Pollutants from any Design Storm Runoff Not Retained On-Site.** The development shall implement a Treatment Control BMP (or suite of BMPs) to remove pollutants of concern from any portion of the runoff produced by the 85th percentile 24-hour design storm (see Subsection (C) (4) of this section) that will not be retained on-site.

   b. **Use Treatment Control BMPs Prior to Infiltration Where Necessary and Effective.** Where infiltration BMPs are not adequate to remove a specific pollutant of concern attributed to the development, an effective Treatment Control BMP (or suite of BMPs) shall be required prior to infiltration of runoff, or else an alternative BMP that does not involve infiltration shall be substituted for the infiltration BMP.

   c. **Select Treatment Control BMPs Effective for Pollutants of Concern.** Where a Treatment Control BMP is required, a BMP (or suite of BMPs) shall be selected that has been shown to be effective in reducing the pollutants of concern generated by the proposed land use.

8. **Use Runoff Control BMP if Development Will Add More Than 15,000 Square Feet of Impervious Surface Area.** When a development results in a large impervious surface area, implementing Site Design strategies and LID BMPs may potentially not be sufficient to minimize adverse post-development changes in runoff volume, flow rate, timing, and duration, which could adversely impact coastal waters, habitat, and property through hydromodification. A proposed development that will add a net total of more than fifteen thousand (15,000) square feet of impervious surface area shall implement a Runoff Control BMP, sized for the appropriate design storm (as specified in Subsection (C) (8) (a) and (b) of this section), to capture and retain a portion of the anticipated increase in runoff volume after the site is developed.

   Runoff Control BMPs are structural systems designed to minimize post-development changes in runoff flow characteristics by processes such as infiltration, evapotranspiration, harvesting for later on-site use, detention, or retention of runoff. Examples include retention structures such as basins, ponds, topographic depressions, and stormwater vaults.

   The following applicability and performance standards shall be required for Runoff Control BMPs, as determined by the net increase in impervious surface area:

a. **Runoff Control BMPs Using Flow Retention Techniques.** If a proposed development will add a net total of more than fifteen thousand (15,000) square feet of impervious surface area, the development shall implement a Runoff Control BMP that uses Flow Retention techniques to capture and retain any portion of the runoff volume produced by the 85th percentile, 24-hour design storm (see Subsection (C) (4) of this section) that will not be retained on-site using an LID approach. Flow Retention techniques shall optimize on-site infiltration, and shall use stormwater storage, harvesting for later on-site use, and/or evapotranspiration to address any of the required runoff flow retention volume that cannot be infiltrated.

b. **Runoff Control BMPs Using Peak Management Techniques.** In addition to using Flow Retention techniques, a proposed development that will add a net total of more than twenty-two thousand five hundred (22,500) square feet of impervious surface area shall also implement a Runoff Control BMP that uses Peak Management techniques to prevent the post-development runoff peak flows discharged from the site from exceeding pre-project peak flows for the 2-year through 10-year storm events.

9. **Use Appropriate BMPs For High-Pollutant Land Uses.** Commercial and industrial developments with a potential for a high concentration of pollutants (including, but not limited to, outdoor work and storage areas, restaurants, roads and highways, parking lots, and vehicle service facilities) shall implement appropriate Site Design and Source Control BMPs to keep pollutants out of stormwater, and shall either use Treatment Control BMPs to remove pollutants of concern before discharging runoff to coastal waters or the storm drain system, or shall connect the pollutant-generating area to the sanitary sewer.

10. **Design and Manage Parking Lots to Minimize Polluted Runoff.** A parking lot over five thousand (5,000) square feet in area shall be designed to minimize impervious surfaces, and the parking lot runoff shall be treated and/or infiltrated before it discharges to coastal waters or the storm drain system, so that heavy metals, oil and grease, and polycyclic aromatic hydrocarbon pollutants on parking lot surfaces will not enter coastal waters. Parking lot design and management shall include:

a. **Parking Lot Landscaping.** The design of landscaped areas for parking lots shall consider, and may, where appropriate, be required to include provisions for the on-site detention, retention, and/or infiltration of stormwater runoff, in order to reduce and slow runoff, and provide pollutant cleansing and groundwater recharge. Where landscaped areas are designed for detention, retention, and/or infiltration of stormwater runoff from the parking lot, recessed landscaped catchments (below the elevation of the pavement) shall be required. Curb cuts shall be placed in curbs bordering landscaped areas, or else curbs shall not be installed, in order to allow stormwater runoff to flow from the parking lot into landscaped areas. All surface parking areas shall be provided a permeable buffer between the parking area and adjoining streets and properties.

b. **Parking Lot Vacuuming.** Accumulations of particulates that may potentially be contaminated by oil, grease, or other pollutants shall be removed from heavily used parking lots (e.g., fast food outlets, lots with twenty-five (25) or more parking spaces, sports event parking lots, shopping malls, grocery stores, and discount warehouse stores) by dry vacuuming or equivalent techniques.

c. **Filter Maintenance.** Filter treatment systems, particularly for hydrocarbon removal BMPs, shall be adequately maintained.

11. **Manage BMPs for Life of Development.** Appropriate protocols shall be implemented to manage BMPs (including ongoing operation, maintenance, inspection, and training), to protect coastal water quality for the life of the development.

D. **Content of Water Quality and Hydrology Plan.** To comply with the WQHP requirements listed in Subsection (C) of this section, the WQHP shall include, at a minimum, the following required components, if they are applicable to the development:

1. **Post-Development Runoff Plan Information.** All of the information required for the Post-Development Runoff Plan (see Section 21.35.040), including Site Design strategies and pollutant Source Control BMPs.

2. **Documentation of Polluted Runoff and Hydrologic Site Characterization.** A polluted runoff and hydrologic characterization of the existing site (e.g., potential pollutants in runoff, soil properties, infiltration rates, depth to groundwater, and the location and extent of hardpan and confining layers) as necessary to design the proposed BMPs.

3. **Description of BMPs to be Implemented to Meet All WQHP Requirements.** A description of the BMPs that will be implemented to meet all the WQHP requirements listed in Subsection (C) of this section, and how these BMPs will minimize stormwater pollution and changes in runoff flows from the development. Include documentation of the expected effectiveness of the proposed BMPs, including a characterization of post-development pollutant loads, and calculations, per applicable standards, of changes in the stormwater runoff flow regime (i.e., volume, flow rate, timing, and duration of flows) resulting from the proposed development when implementing the proposed BMPs.

4. **Calculations for Sizing BMPs Using 85th Percentile Design Storm Standard.** Calculations that demonstrate that the proposed BMP (or suite of BMPs) implemented to comply with WQHP requirements (see Subsection (C) of this section) has been sized and designed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.

5. **Documentation that Runoff from Impervious and Semi-Pervious Surfaces is Addressed as Required.** A table quantifying the site's new, replaced, and pre-existing impervious and semi-pervious surface areas. Documentation that runoff from all new and/or replaced impervious and semi-pervious surfaces is addressed. For sites where the area of added and/or replaced impervious and

semi-pervious surfaces is greater than or equal to 50% of the pre-existing impervious and semi-pervious surfaces, documentation that runoff from the entire developed area, including pre-existing surfaces, is addressed (pursuant to Subsection (C) (3) of this section).

6. **Description of LID Approach Used to Retain Design Storm Runoff Volume On-Site.** A description of the LID approach to stormwater management to be implemented, documenting that LID Site Design strategies have been given priority, and a description of the LID BMPs that will be used to retain on-site (by means of infiltration, evapotranspiration, or harvesting for later on-site use) the runoff produced by the 85th percentile 24-hour design storm (see Subsection (C) (4) of this section), to the extent appropriate and feasible.

7. **Alternatives Analysis Documenting Site-Specific Constraints.** Where an alternatives analysis is required (pursuant to Subsection (C) (6) of this section), document the site-specific engineering constraints and/or physical conditions to justify the determination that there are no appropriate and feasible alternative project designs that would retain on-site the runoff produced by the 85th percentile 24-hour design storm, giving precedence to an LID approach. Also demonstrate that on-site runoff retention is maximized to the extent appropriate and feasible, and that the feasibility of off-site runoff retention is considered.

8. **Description of BMP Management.** A description of the ongoing management of post-development BMPs (including operation, maintenance, inspection, and training) that will be performed for the life of the development, as needed for the BMPs to function properly.

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Underlined Text = Inserted Language, CCC Suggested Modification

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Chapter 21.38 – Nonconforming Uses and Structures

Sections:

21.38.010 Purpose
21.38.020 Applicability
21.38.030 Determination of Nonconformity
21.38.040 Nonconforming Structures
21.38.050 Nonconforming Uses
21.38.060 Nonconforming Parking
21.38.070 Landmark Structures
21.38.080 Repair of Damaged or Partially Destroyed Nonconformities

21.38.010 – Purpose

This chapter establishes procedures for the continuation and maintenance of existing uses and structures, except signs, that do not conform to the provisions of this Implementation Plan and for the abatement of those uses that may adversely affect the general welfare of persons and property.

21.38.020 – Applicability

A. **Legally Established Uses and Structures.** The provisions of this chapter shall apply to all legally established uses and structures that ~~become nonconforming due to reclassification, ordinance changes, or annexations~~ that do not conform to the use regulations or development standards of this Implementation Plan.

B. **Exemptions.** A structure that was legally constructed prior to October 26, 2010, shall be exempt from the limitations identified in Section 21.38.040(G)(1) unless the structure is nonconforming because it does not comply with the required setbacks.

21.38.030 – Determination of Nonconformity

A. **Director's Determination.** The Director shall determine the nonconforming conditions of land uses and structures.

B. **Nonconforming Use.** Any use determined to have been lawfully established and maintained before the effective date of the certification of this Implementation Plan or any subsequent amendments thereto, but that does not conform to ~~the~~ current use regulations or required conditions for the coastal zoning district in which it is located ~~by reason of adoption or amendment of this Implementation~~

~~Plan or by reason of annexation of territory to the City,~~ shall be deemed to be a nonconforming use.

1. A nonconforming use includes a use that was lawfully established and maintained, but is now conditionally allowed, and has not obtained the required discretionary permit.

2. A use shall not be considered to have been "lawfully established and maintained" and is an illegal use if it was established or operated without required permits and licenses, including permits and licenses required by any Federal, State, or local government agency.

C. **Nonconforming Structure.** Any structure that was lawfully erected before the effective date of the certification of this Implementation Plan or any subsequent amendments thereto, but that does not conform with the current development standards for the coastal zoning district in which it is located ~~by reason of adoption or amendment of this Implementation Plan or by reason of annexation of territory to the City,~~ or by reason of landform and habitat changes, including bluff or shoreline erosion, wetland or dune migration shall be deemed to be a legal nonconforming structure. A structure, or any portion of a structure, shall not be considered to have been "lawfully erected" and is illegal if it was constructed without required permits, or was constructed inconsistent with approved plans for a required permit, including permits required by any Federal, State, or local government agency.

D. **Responsibility of Owner.** When a use or structure does not conform with the applicable use regulations or property development standards for the coastal zoning district in which it is located, it shall be the responsibility of the owner to provide evidence that the use or structure was lawfully established, erected, and maintained and is nonconforming by reason of adoption or amendment of this Implementation Plan or by reason of annexation of territory to the City.

E. **Illegal Use or Structure.** A use or structure that was not lawfully established, erected, or maintained is contrary to the provisions of this Implementation Plan and the City may commence proceedings for the abatement and removal of the use or structure.

21.38.040 – Nonconforming Structures

Nonconforming structures may be maintained, altered, or added on to only in compliance with the provisions of this section.

A. **Maintenance and Repairs.** Routine maintenance and repairs may be made to nonconforming principal and accessory structures. The replacement of 50% or more of a structure is not repair and maintenance but instead constitutes a replacement structure.

B. **Nonstructural Alterations.** Changes to interior partitions or other nonstructural improvements may be made to nonconforming principal structures, but shall not be made to accessory structures.

C. **Structural Alterations.** Structural elements, with the exception of foundations of nonconforming principal structures (see subsection (D) of this section), may be modified, repaired, or replaced when the proposed improvements do not increase the degree of nonconformity. Structural alteration of nonconforming accessory structures is not allowed.

D. **Foundation Alterations.** Routine ~~M~~maintenance and repairs may only be made to foundations of nonconforming principal structures if the foundation is not within a geologic setback or bulkhead setback area. A foundation of a nonconforming principal structure may be repaired or maintained ~~modified, retrofitted, or replaced~~ when necessary and in conjunction with additions allowed in compliance with subsection (G) of this section and Section 21.38.060 (A). For any alterations beyond routine repair or maintenance, the nonconforming structure shall be required to be brought into compliance with all applicable standards and regulations of this Implementation Plan, except as provided in subsection (F) of this section. Alterations to nonconforming accessory structures shall not be allowed.

E. **Seismic Retrofits.** Alterations to nonconforming structures due to seismic retrofitting requirements are allowed in compliance with the California Existing Building Code.

F. **Reasonable Accommodation.** Improvements to a nonconforming structure that are necessary to comply with an approved reasonable accommodation in compliance with Federal and State fair housing laws shall be allowed.

G. **Additions.** Nonconforming structures may be expanded and the existing nonconforming elements of the structure shall not be required to be brought into compliance with the development standards of this Implementation Plan subject to the following limitations and the limitations provided in Section 21.38.060 (Nonconforming Parking).

1. Expansion shall be limited to a maximum of fifty (50) percent of the gross floor area of the existing structure ~~within any ten (10) year period~~;

2. The floor area of any addition, together with the floor area of the existing structure, shall not exceed the allowed maximum floor area for the coastal zoning district;

3. The addition shall comply with all applicable development standards and use regulations of this Implementation Plan; and

4. Additional parking shall be provided in compliance with Section 21.38.060 (Nonconforming Parking).

H. **Nonconformity with Coastal Resource Protection Regulations.** If a structure is non-conforming due to a coastal resource protection development regulation of Section 21.28.040 (Bluff Overlay District), Section 21.28.050 (Canyon Overlay District), Section 21.30.030 (Landform and Shoreline Protection), Chapter 21.30A (Public Access and Recreation), or Chapter 21.30B.050 (Development Standards) and when proposed development such as alterations or additions would ~~result~~ involve demolition or replacement of more than fifty (50) percent of the exterior walls, or foundation of an existing structure ~~building to be demolished or replaced within any ten (10) year period~~, the entire ~~building~~ structure shall be brought into conformity with all current development regulations and all applicable policies of the certified Local Coastal Program.

I. **Exceptions.**

1. **Corona del Mar and Balboa Village.** Existing nonresidential structures within Corona del Mar and Balboa Village that are nonconforming because they exceed the allowed floor area shall be exempt from the limits of this section and may be demolished and reconstructed to their preexisting height and floor area; provided, that not less than the preexisting number of parking spaces is provided along with provisions for alternative modes of transportation.

2. **Landmark Structures.** Landmark structures shall be exempt from the requirements of this chapter in compliance with Section 21.38.070 (Landmark Structures).

21.38.050 – Nonconforming Uses

Nonconforming uses may be changed, expanded, increased, or intensified only as provided in this section.

A. **Expansion and Intensification of Existing Nonconforming Uses.** In nonresidential coastal zoning districts, and in areas where residential uses are not allowed in Planned Community Districts or specific plan districts, only a use that was previously allowed by right, but which becomes nonconforming because of new permit regulations, may be expanded or intensified (e.g., increase in floor area, lot area, or occupancy load) if such new development does not increase the degree of the use's nonconformity, complies with the coastal protection policies of the Local Coastal Program, and is subject to the approval of a coastal development permit.

B. **Change of Use.**

1. A nonconforming nonresidential use may be changed to a conforming use, provided the change does not create or increase a deficiency in required off-street parking except as provided in Section 21.38.060 (Nonconforming Parking).

2. A residential use that is nonconforming because it exceeds the allowed number of units for the coastal zoning district may be altered to reduce the number of dwelling units, provided the reduction complies with any floor area limit and affordable housing provisions are satisfied.

C. **Exception for Landmark Structures.** The use of a landmark structure may be changed, expanded, increased, or intensified ~~without obtaining a coastal development permit required by this section~~ subject to compliance with the provisions of Section 21.38.070 (Landmark Structures).

D. **Exception for Short-term Lodging.** A short-term lodging lodging unit legally established on or before June 1, 2004, on a parcel in the R-1 (Single-Unit Residential) Coastal Zoning District, or a parcel designated for single-unit dwelling land use as part of a Planned Community development plan, may continue.

21.38.060 – Nonconforming Parking

A. **Residential.** Where a residential structure or use is nonconforming only because it does not conform to the off-street parking requirements of this Implementation Plan, the following provisions shall apply: ~~only the following alterations may be allowed:~~

1. **Number of Spaces.** A residential development having less than the required number of parking spaces per dwelling unit shall be allowed the following repairs, alterations, and additions:

   a. Repair and maintenance, interior alterations, and structural alterations, as provided for in Section 21.38.040(A) through (F); and

   b. Additions up to a maximum of ten (10) percent of the existing floor area of the structure ~~within a ten (10) year period~~ as provided in Section 21.38.040(G).

   c. Any repair, maintenance, or additions shall not result in loss of existing parking spaces and

   d. Required parking shall be provided where feasible.

2. **Dimensions or Type of Parking Spaces.** Residential developments that are nonconforming because they do not have the required type of covered or enclosed parking spaces or because amendments to this Implementation Plan have changed the dimensions of required parking spaces subsequent to the original construction of the structure may be altered or expanded as follows:

   a. All improvements and expansions allowed under subsection (A)(1) of this section;

   b. Additions larger than those allowed under subsection (A)(1) of this section may be allowed subject to the approval of a coastal development permit.

3. **Alley Access**. Where applicable, residential development involving repairs, alterations, and additions to residential development having less than the required number of parking spaces per dwelling unit shall provide alley access to parking area if it would result in additional public street parking.

B. **Nonresidential.** Where nonresidential structures and uses are nonconforming because they do not provide the required number of parking spaces the following provisions shall apply:

1. **Change of Use.** A nonconforming use in a nonresidential coastal zoning district, and in areas where residential uses are not allowed in Planned Community Districts or specific plan districts, may be changed to a new use allowed in that coastal zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area, or lot area) occurs and the new use requires a parking rate of no more than one space per two hundred fifty (250) square feet of gross building area.

2. **Repair, Maintenance, and Alterations.** Repair, maintenance, and alterations to nonconforming structures and uses shall be allowed as provided in Section 21.38.040(A) through (G).

3. **Addition to Structure or Intensification of Use.** A nonconforming structure or use may be enlarged by up to ten (10) percent of its existing gross floor area, or a nonconforming use may be changed to a new use that requires additional parking under the following conditions:

   a. Required parking for the additional square footage is provided; or

   b. If the new use requires more parking than the nonconforming use, the new use shall only be required to provide additional parking equal to the difference between the two; or

c. A reduction in the number of required parking spaces is approved in compliance with the provisions of this Implementation Plan.

4. **Demolition of Structure.** All rights with regard to nonconforming parking shall be lost for a structure that is voluntarily demolished, except as provided in Section 21.38.040(~~H~~I) (Exceptions).

21.38.070 – Landmark Structures

A. **Purpose.** The purpose of this section is to help preserve historic structures, encourage their adaptive reuse, and revitalize the older commercial areas in which they are located by granting relief from restrictions on nonconforming structures and uses and by maintaining the principal use and minimizing impacts on the surrounding area.

B. **Applicability.** The following types of structures are recognized as having importance to the history and architecture of the City and are collectively designated as landmark structures:

1. **Landmark Theaters.** The term “landmark theaters” shall mean a structure constructed for use as a cinema or theater that was constructed on or before December 12, 1950; has a single screen or stage; and was designed to seat more than three hundred (300) people.

2. **Landmark Structure.** The term “landmark structure” shall mean a structure listed on the National Register of Historic Places, constructed on or before December 12, 1950.

C. **Exemptions.** Changes in use and structural alterations to a landmark structure shall be exempt from the requirements of this chapter in compliance with the following.

1. **Change of Use.**

a. The principal use of a landmark structure may be changed, modified, increased, or intensified ~~without obtaining a coastal development permit~~ subject to compliance with the conditions of subsection (D) of this section, and regardless of whether the use has been discontinued for a period of time.

b. An accessory use may be initiated, increased, or intensified ~~without obtaining a coastal development permit~~ subject to compliance with the conditions of subsection (D) of this section.

c. For purposes of this section, the term “principal use of a landmark theater” shall mean the display of motion pictures and similar entertainment uses that occurred on a regular basis within the structure from its inception to January 1, 2003.

d. For the purposes of this section, the term “principal use of a landmark structure” shall be the use that occupied the greatest amount of floor area as of January 1, 2003.

e. For purposes of this section, the term “accessory use” shall mean a use that is allowed in the coastal zoning district in which the landmark structure is located.

2. **Alterations.** Structural alterations may be made to a landmark structure ~~without obtaining a coastal development permit~~ subject to compliance with the conditions of subsection (D) of this section.

D. **Conditions.** The exemptions specified in subsection (C) of this section are applicable on the following conditions only where a finding can be made that the development will not perpetuate or establish a physical impediment to public access to coastal resources, nor adversely impact coastal views or biologicial resources:

1. A new use that is initiated and a use that is intensified by way of a change in operational characteristics shall be an accessory use and remain subordinate to the principal use of the landmark structure;

2. The principal use of the landmark structure shall occupy at least seventy (70) percent of the gross floor area of the structure;

3. Any permit required by other titles of the Municipal Code (other than this title) shall be obtained before the initiation or intensification of an accessory use of a landmark structure;

4. Accessory uses in any landmark theater shall be conducted only between the hours of 8:00 a.m. and 12:00 a.m.;

5. The required off-street parking of all uses after any additions, intensification, modification, or expansion (including credit for reductions in off-street parking resulting from the elimination of accessory uses existing on January 1, 2003) is less than the required off-street parking for the principal and accessory uses prior to any additions, intensification, modification or expansion; and

6. The facade and exterior architectural features of the landmark structure are restored to substantially their original condition as determined by the

Director and the exterior walls remain in substantially the same location as they existed on January 1, 2003.

21.38.080 – Repair of Damaged or Partially Destroyed Nonconformities

A. **Purpose.** To establish procedures for and limits on the rebuilding of nonconforming structures that are involuntarily damaged or destroyed**.**

~~A~~B. **Nonconforming Use.** A nonconforming use occupying land, a conforming structure, or a portion of a conforming structure that is involuntarily damaged or destroyed may be reestablished; provided, that:

1. Restoration work is commenced within twelve (12) months of the date of damage, unless otherwise allowed by the Director, and is diligently pursued to completion; and

2. An abatement period for the nonconforming use has not been established.

~~B~~C. **Nonconforming Structure.**

1. **Determination of Replacement Cost.** The replacement cost of the structure shall be determined by the Building Official. However, the Building Official shall accept the appraised replacement cost of the structure as determined by an independent, licensed appraiser retained by the property owner.

2. **Up to Seventy-Five (75) Percent Damage or Destruction.** A nonconforming structure that is involuntarily damaged or destroyed may be repaired, restored, or rebuilt if the cost of the repair or restoration is less than seventy-five (75) percent of the replacement cost of the entire structure. The rights conferred by this section are contingent upon diligent application for a building permit after the damage occurs and diligent pursuit of repairs or rebuilding to completion.

3. **Greater than Seventy-Five (75) Percent Damage or Destruction.** If a nonconforming structure is involuntarily damaged or destroyed to an extent of more than seventy-five (75) percent of its replacement cost, the nonconformity may be restored to its original condition subject to the approval of a coastal development permit unless exempt per Section 21.52.035(Projects Exempt from the City's Coastal Permit Requirements). An application for the coastal development permit shall be made within twelve (12) months after the damage or destruction occurs.

~~C~~D. **Aging and Deterioration.** The provisions of this section shall not allow replacement of nonconforming conditions in structures damaged by ongoing

natural processes (e.g., dry rot or termites) or that have deteriorated due to age and lack of maintenance.

~~D~~E. **Condominium Units.** When a coastal development permit is required for replacement or repair of condominium units that are involuntarily damaged or destroyed no reduction in the number of units shall be required. The replacement units shall be permitted to be equivalent in size and location to the units that were damaged or destroyed.

~~E~~F. **Exceptions for Corona del Mar and Balboa Village.** Existing nonresidential structures within Corona del Mar and Balboa Village that are nonconforming because they exceed the allowed floor area shall be exempt from the limits of this section and may be demolished and reconstructed to their preexisting height and floor area; provided, that not less than the preexisting number of parking spaces is provided along with provisions for alternative modes of transportation.

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Chapter 21.40 – Off-Street Parking

Sections:

21.40.010 Purpose
21.40.020 Applicability
21.40.030 Requirements for Off-Street Parking
21.40.040 Off-Street Parking Spaces Required
21.40.045 Bicycle Parking for Non-residential Developments
21.40.050 Parking Requirements for Shopping Centers
21.40.060 Parking Requirements for Food Service Uses
21.40.070 Development Standards for Parking Areas
21.40.100 Off-site Parking
21.40.110 Adjustments to Off-Street Parking Requirements
21.40.120 Parking Management Districts
21.40.130 In-Lieu Parking Fee
~~**21.40.145 Preferential Parking Zones**~~

21.40.010 – Purpose

The purpose of this chapter is to provide off-street parking and loading standards to:

A. Provide for the general welfare and convenience of persons within the City by ensuring that sufficient parking facilities are available to meet the needs generated by specific uses and that adequate parking is provided, to the extent feasible;

B. Provide accessible, attractive, secure, and well-maintained off-street parking and loading facilities;

C. Increase public safety by reducing congestion on public streets and to minimize impacts to public street parking available for coastal access and recreation;

D. Ensure access and maneuverability for emergency vehicles;

E. Provide loading and delivery facilities in proportion to the needs of allowed uses; and

F. Provide transportation and parking requirements for new development to protect, maintain, and enhance public access in the Coastal Zone.

21.40.020 – Applicability

A. **Off-Street Parking Required.** Each use, including a change or expansion of a use or structure, except as otherwise provided for in Chapter 21.38 (Nonconforming Uses and Structures) shall have appropriately maintained off-street parking and loading areas in compliance with the provisions of this chapter. A use shall not be commenced and

structures shall not be occupied until improvements required by this chapter are satisfactorily completed.

B. **Change, Enlargement, or Intensification of Use.** Changes in use and enlargement or intensification of an existing use shall require compliance with the off-street parking requirements of this chapter, except as allowed in Chapter 21.38 (Nonconforming Uses and Structures).

21.40.030 – Requirements for Off-Street Parking

A. **Parking Required To Be On-Site.** Parking shall be located on the same lot or development site as the uses served, except for the following:

1. Townhouses and Multi-Tenant Uses. Where parking is provided on another lot within the same development site, the parking shall be located within two hundred (200) feet of the units they are intended to serve.

2. Off-Site Parking Agreement. Parking may be located off-site with the approval of an off-site parking agreement.

B. **Permanent Availability Required.** Each parking and loading space shall be permanently available and maintained for parking purposes for the use it is intended to serve. The Director may authorize the temporary use of parking or loading spaces for other than parking or loading in conjunction with a seasonal or intermittent use.

C. **Maintenance.** Parking spaces, driveways, maneuvering aisles, turnaround areas, and landscaping areas shall be kept free of dust, graffiti, and litter. Striping, paving, walls, light standards, and all other facilities shall be permanently maintained in good condition.

D. **Vehicles for Sale.** Vehicles, trailers, or other personal property shall not be parked upon a private street, parking lot, or private property for the primary purpose of displaying the vehicle, trailer, or other personal property for sale, hire, or rental, unless the property is appropriately zoned, and the vendor is licensed to transact a vehicle sales business at that location.

E. **Calculation of Spaces Required.**

1. **Fractional Spaces.** Fractional parking space requirements shall be rounded up to the next whole space.

2. **Bench Seating.** Where bench seating or pews are provided, eighteen (18) linear inches of seating shall be considered to constitute a separate or individual seat.

3. **Gross Floor Area.** References to spaces per square foot are to be calculated on the basis of gross floor area unless otherwise specified.

4. **Net Public Area.** “Net public area” shall be defined as the total area accessible to the public within an eating and/or drinking establishment, excluding kitchens, restrooms, offices pertaining to the use, and storage areas.

5. **Spaces per Occupant.** References to spaces per occupant are to be calculated on the basis of maximum occupancy approved by the City of Newport Beach Fire Department.

6. **Spaces Required for Multiple Uses.** If more than one use is located on a site, the number of required off-street parking spaces shall be equal to the sum of the requirements prescribed for each use.

F. **Nonconforming Parking and Loading.** Land uses and structures that are nonconforming due solely to the lack of off-street parking or loading facilities required by this chapter shall be subject to the provisions of Section 21.38.060 (Nonconforming Parking).

21.40.040 Off-Street Parking Spaces Required.

Off-street parking spaces shall be provided in compliance with Table 21.40-1. Where the off-street parking spaces required is established by a coastal development permit, the review authority shall require sufficient data, including a parking demand study, from the applicant in order to make this determination. These standards shall be considered the minimum required to preserve the public health, safety, and welfare, and more extensive parking provisions may be required by the review authority in particular circumstances. Unless otherwise noted parking requirements are calculated based on gross floor area.

TABLE 21.40-1
OFF-STREET PARKING REQUIREMENTS

Land Use	Parking Spaces Required
Industry, Manufacturing and Processing, Warehousing Uses	
Food Processing	1 per 2,000 sq. ft.
Handicraft Industry	1 per 500 sq. ft.
Industry	
Small—5,000 sq. ft. or less	1 per 500 sq. ft.
Large—Over 5,000 sq. ft.	1 per 1,000 sq. ft.
Industry, Marine-Related	1 per 750 sq. ft.
Personal Storage (Mini Storage)	2 for resident manager, plus additional for office as required by coastal development permit
Research and Development	1 per 500 sq. ft.
Warehousing and Storage	1 per 2,000 sq. ft., plus one per 350 sq. ft. for offices. Minimum of 10 spaces per use
Wholesaling	1 per 1,000 sq. ft.

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
Recreation, Education, and Public Assembly Uses	
Assembly/Meeting Facilities	1 per 3 seats or one per 35 sq. ft. used for assembly purposes[1]
Commercial Recreation and Entertainment	As required by coastal development permit
Cultural Institutions	1 per 300 sq. ft.
Schools, Public and Private	As required by coastal development permit
Residential Uses	
Accessory Dwelling Units	1 per unit; a minimum of 2 covered per site.
Single-Unit Dwellings—Attached	2 per unit in a garage
Single-Unit Dwellings—Detached and less than 4,000 sq. ft. of floor area	2 per unit in a garage
Single-Unit Dwellings—Detached and 4,000 sq. ft. or greater of floor area	3 per unit in a garage
Single-Unit Dwellings—Balboa Island	2 per unit in a garage
Multi-Unit Dwellings—3 units	2 per unit covered, plus guest parking; 1—2 units, no guest parking required 3 units, 1 guest parking space
Multi-Unit Dwellings—4 units or more	2 per unit covered, plus 0.5 space per unit for guest parking
Two-Unit Dwellings	2 per unit; 1 in a garage and 1 covered or in a garage
Live/Work Units	2 per unit in a garage, plus 2 for guest/customer parking
Senior Housing—Market rate	1.2 per unit
Senior Housing—Affordable	1 per unit
Retail Trade Uses	
Appliances, Building Materials, Home Electronics, Furniture, Nurseries, and Similar Large Warehouse-type Retail Sales and Bulk Merchandise Facilities	1st 10,000 sq. ft.—1 space per 300 sq. ft. Over 10,000 sq. ft.—1 space per 500 sq. ft.

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
	Plus 1 per 1,000 sq. ft. of outdoor merchandise areas
Food and Beverage Sales	1 per 200 sq. ft.
Marine Rentals and Sales	
Boat Rentals and Sales	1 per 1,000 sq. ft. of lot area, plus 1 per 350 sq. ft. of office area
Marine Retail Sales	1 per 250 sq. ft.
Retail Sales	1 per 250 sq. ft.
Shopping Centers	1 per 200 sq. ft. See Section 21.40.050
Service Uses—Business, Financial, Medical, and Professional	
Convalescent Facilities	1 per 3 beds or as required by coastal development permit
Emergency Health Facilities	1 per 200 sq. ft.
Financial Institutions and Related Services	1 per 250 sq. ft.
Hospitals	1 per bed; plus 1 per resident doctor and 1 per employee.
Offices*—Business, Corporate, General, Governmental First 50,000 sq. ft. Next 75,000 sq. ft. Floor area above 125,001 sq. ft. * Not more than 20% medical office uses.	 1 per 250 sq. ft. net floor area 1 per 300 sq. ft. net floor area 1 per 350 sq. ft. net floor area
Offices—Medical and Dental Offices	1 per 200 sq. ft.
Outpatient Surgery Facility	1 per 250 sq. ft.
Service Uses—General	
Adult-Oriented Businesses	1 per 1.5 occupants or as required by coastal development permit
Ambulance Services	1 per 500 sq. ft.; plus 2 storage spaces.
Animal Sales and Services	
Animal Boarding/Kennels	1 per 400 sq. ft.
Animal Grooming	1 per 400 sq. ft.

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
Animal Hospitals/Clinics	1 per 400 sq. ft.
Animal Retail Sales	1 per 250 sq. ft.
Artists' Studios	1 per 1,000 sq. ft.
Catering Services	1 per 400 sq. ft.
Care Uses	
Adult Day Care—Small (6 or fewer adults)	Spaces required for dwelling unit only
Adult Day Care—Large (7 or more adults)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit)
Child Day Care—Small (6 or fewer children)	Spaces required for dwelling unit only
Child Day Care—Large (9 to 14 children)	2 per site for drop-off and pick-up purposes (in addition to the spaces required for the dwelling unit)
Day Care—General	1 per 7 occupants based on maximum occupancy allowed per license
Residential Care—General (7 to 14 persons)	1 per 3 beds
Eating and Drinking Establishments	
Accessory (open to public)	1 per each 3 seats or 1 per each 75 sq. ft. of net public area, whichever is greater
Bars, Lounges, and Nightclubs	1 per each 4 persons based on allowed occupancy load or as required by coastal development permit
Food Service with/without alcohol, with/without late hours	1 per 30—50 sq. ft. of net public area, including outdoor dining areas 25% of the interior net public area or 1,000 sq. ft., whichever is less. See Section 21.40.060
Food Service—Fast food	1 per 50 sq. ft., and 1 per 100 sq. ft. for outdoor dining areas
Take-Out Service—Limited	1 per 250 sq. ft.
Emergency Shelter	1 per 4 beds plus 1 per staff; and if shelter is designed with designated family units then 0.5 parking space

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
	per bedroom designated for family units
Funeral Homes and Mortuaries	1 per 35 sq. ft. of assembly area
Health/Fitness Facilities	
Small—2,000 sq. ft. or less	1 per 250 sq. ft.
Large—Over 2,000 sq. ft.	1 per 200 sq. ft.
Laboratories (medical, dental, and similar)	1 per 500 sq. ft.
Maintenance and Repair Services (land use)	1 per 500 sq. ft.
Marine Services	
Boat Storage—Dry	0.33 per storage space or as required by coastal development permit
Boat Yards	As required by coastal development permit
Dry Docks	2 per dry dock
Entertainment and Excursion Services	1 per each 3 passengers and crew members
Marine Service Stations	As required by coastal development permit
Sport Fishing Charters	1 per each 2 passengers and crew members
Water Transportation Services—Office	1 per 100 sq. ft., minimum 2 spaces
Personal Services	
Massage Establishments	1 per 200 sq. ft. or as required by coastal development permit
Nail Salons	1 per 80 sq. ft.
Personal Services, General	1 per 250 sq. ft.
Studio (dance, music, and similar)	1 per 250 sq. ft.
Postal Services	1 per 250 sq. ft.
Printing and Duplicating Services	1 per 250 sq. ft.
Recycling Facilities	
Collection Facility—Large	4 spaces minimum, but more may be required by the review authority

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
Collection Facility—Small	As required by the review authority
Visitor Accommodations	
Bed and Breakfast Inns	1 per guest room, plus 2 spaces
Hotels and accessory uses	As required by coastal development permit
Motels	1 per guest room or unit
Recreational Vehicle Parks	As required by coastal development permit
Time Shares	As required by coastal development permit
Transportation, Communications, and Infrastructure Uses	
Communication Facilities	1 per 500 sq. ft.
Heliports and Helistops	As required by coastal development permit
Marinas	0.75 per slip or 0.75 per 25 feet of mooring space
Vehicle Rental, Sale, and Service Uses	
Vehicle/Equipment Rentals	
Office Only	1 per 250 sq. ft.
Limited	1 per 300 sq. ft., plus 1 per rental vehicle (not including bicycles and similar vehicles)
Vehicle/Equipment Rentals and Sales	1 per 1,000 sq. ft. of lot area
Vehicles for Hire	1 per 300 sq. ft., plus 1 per each vehicle associated with the use and stored on the same site
Vehicle Sales, Office Only	1 per 250 sq. ft., plus 1 as required by DMV
Vehicle/Equipment Repair (General and Limited)	1 per 300 sq. ft. or 5 per service bay, whichever is more
Vehicle/Equipment Services	
Automobile Washing	1 per 200 sq. ft. of office or lounge area; plus queue for 5 cars per washing station

TABLE 21.40-1 OFF-STREET PARKING REQUIREMENTS	
Land Use	**Parking Spaces Required**
Service Station	1 per 300 sq. ft. or 5 per service bay, whichever is more; minimum of 4
Service Station with Convenience Market	1 per 200 sq. ft., in addition to 5 per service bay
Vehicle Storage	1 per 500 sq. ft.
Other Uses	
Caretaker Residence	1 per unit
Special Events	As required by ~~Chapter 11.03~~ by coastal development permit
Temporary Uses	As required by the coastal development permit in compliance with Chapter 21.52
1. The 1 per 3 seats standard should be used for areas with fixed setting and the 1 per 35 sq. ft. standard should be used for areas with no fixed seating.	

21.40.045 – Bicycle Parking for Non-residential Developments

A. **Applicability.** The bicycle parking standards of this section shall be required for new non-residential developments with gross floor areas of ten thousand (10,000) square feet or more. Non-residential developments that are less than ten thousand (10,000) square feet shall be encouraged to provide such facilities, when feasible.

B. **Number Required.** Five (5) percent of the number of off-street parking spaces required.

C. **Design Requirements.** For each bicycle parking space required, a stationary object securely anchored to a permanent surface shall be provided to which a user can secure the bicycle with a user-provided cable and lock. The stationary object may be either a freestanding bicycle rack, ~~or~~ a wall-mounted bracket, or a bicycle locker.

D. **Location.** Parking areas shall be located in compliance with the following requirements.

1. The location of bicycle parking spaces is dependent on the intended duration of use for the space.

a. Short-term bicycle parking spaces shall be located to be visible from public areas such as public streets, store fronts, sidewalks, plazas, and to be convenient to the target users of the bicycle parking to the maximum extent feasible and shall be placed within one hundred (100) feet of the structure's main pedestrian entrance or as close as feasible.

b. Long-term bicycle parking spaces shall be located in a well-illuminated, secured, covered area. Accessible to and from nearby public streets and sidewalks for the target users of the bicycle parking, who may or may not include the general public. Located at surface levels near the structure's main pedestrian entrance or in the parking garage.

2. Bicycle parking spaces shall be located directly adjacent to a bicycle rack or within a secure, single bicycle locker and shall allow for convenient, unobstructed access to such bicycle rack or locker;

3. Bicycle parking spaces shall be located so as not to block pedestrian entrances, walkways, or circulation patterns in or around nearby facilities or structures.

E. **Signage.** Appropriate signage identifying the location of both short and long term bicycle parking shall be provided.

21.40.050 – Parking Requirements for Shopping Centers

A. An off-street parking space requirement of one space for each two hundred (200) square feet of gross floor area may be used for shopping centers meeting the following criteria:

1. The gross floor area of the shopping center does not exceed 100,000 square feet; and

2. The gross floor area of all eating and drinking establishments does not exceed fifteen (15) percent of the gross floor area of the shopping center.

B. Individual tenants with a gross floor area of ten thousand (10,000) square feet or more shall meet the parking space requirement for the applicable use in compliance with Section 21.40.040 (Off-Street Parking Spaces Required) and Section 21.40.045 (Bicycle Parking for Non-residential Developments).

C. Shopping centers with gross floor areas in excess of 100,000 square feet or with eating and drinking establishments occupying more than fifteen (15) percent of the gross floor area of the center shall use a parking requirement equal to the sum of the requirements prescribed for each use in the shopping center.

21.40.060 – Parking Requirements for Food Service Uses

A. **Establishment of Parking Requirement.** The applicable review authority shall establish the off-street parking requirement for food service uses within a range of one space for each thirty (30) to fifty (50) square feet of net public area based upon the following considerations:

1. **Physical Design Characteristics.**

a. The gross floor area of the building or tenant space;

b. The number of tables or seats and their arrangement;

c. Other areas that should logically be excluded from the determination of net public area, such as sales and display areas;

d. The parking lot design, including the use of small car spaces, tandem and valet parking and loading areas;

e. Availability of guest dock space for boats; and

f. Extent of outdoor dining.

2. **Operational Characteristics.**

a. The amount of floor area devoted to live entertainment or dancing;

b. The amount of floor area devoted to the sale of alcoholic beverages;

c. The presence of pool tables, big screen televisions or other attractions;

d. The hours of operation; and

e. The expected turnover rate.

3. **Location of the Establishment.**

a. In relation to other uses and the waterfront;

b. Availability of off-site parking nearby;

c. Amount of walk-in trade; and

d. Parking problems in the area at times of peak demand.

B. **Conditions of Approval.** If during the review of the application, the review authority uses any of the preceding considerations as a basis for establishing the parking requirement, the substance of the considerations shall become conditions of the permit application approval and a change to any of the conditions will require an amendment to the permit application, which may be amended to establish parking requirements within the range as noted above.

21.40.070 – Development Standards for Parking Areas

~~Parking areas shall be developed in compliance with the following requirements.~~

A. **Parking Space Standards.** Parking spaces shall be designed to provide have adequate dimensions, clearances, and access to insure their use.

1. **Minimum Parking Space and Drive Aisle Dimensions.** Each parking space, drive aisle, and other parking lot features shall comply with the minimum dimension requirements in Tables 21.40-2 and 21.40-3 and as illustrated in Figure 21.40-1.

2. **Width of Parking Aisle.** The width of parking aisles may be reduced by the Public Works Director in unique situations arising from narrow lots or existing built conditions when traffic safety concerns have been addressed.

TABLE 21.40-2
MINIMUM STANDARD PARKING SPACE SIZE

Width	Length
8 ft. 6 in.	17 ft.

TABLE 21.40-3
STANDARD VEHICLE SPACE REQUIREMENTS

Angle	Stall Width (1)(3)	Stall Depth (2)	Stall Length (3)	Aisle Width	
				One-Way	Two-Way
Parallel	8 ft.	N/A	22 ft.	14 ft.	24 ft.
30	8 ft. 6 in.	16 ft.	17 ft.	14 ft.	N/A
45	8 ft. 6 in.	18 ft.	17 ft.	14 ft.	N/A
60	8 ft. 6 in.	19 ft.	17 ft.	18 ft.	N/A
90	8 ft. 6 in.	17 ft.	17 ft.	26 ft.	26 ft.

(1) When the length of a parking space abuts a wall, or similar obstruction, the required width of the space shall be increased to nine feet.

(2) Measured perpendicular to aisle.

(3) Structural elements shall not encroach into the required stall, with the exception of a one square foot area at the front corners.

3. **Bumper Overhang Areas.** A maximum of two and one-half feet of the parking stall depth may be landscaped with low-growing, hearty materials in lieu of paving or an adjacent walkway may be increased, allowing a two and one-half foot bumper overhang while maintaining the required parking dimensions.

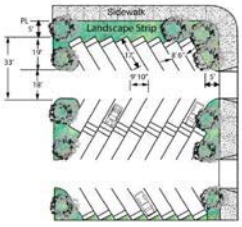
4. **Compact Parking.** Compact parking spaces shall not be allowed. However, where they exist at the time of adoption of this Zoning Code they may remain and shall not be considered a nonconforming condition



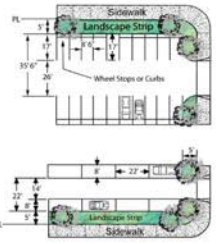
30 Degree Angle Parking



45 Degree Angle Parking



60 Degree Angle Parking



90 Degree Parking

B. **Alley Access.** Development on lots or parcels with alley access shall be designed such that access to on-site parking spaces is accessed by the abutting alley.

1. **Exceptions.** The reviewing authority may grant an exception on lots:

a. Where the width of the abutting alley is not sufficient to provide maneuvering space for access; or

b. Where the provision of access by abutting streets would not result in the loss of existing on-street parking spaces or prevent the creation of new on-street parking spaces by the closure of existing curb cuts.

C. **Driveways.** Project and subdivision designs shall minimize the number of curb cuts for driveways. Existing curb cuts shall be closed to create public on-street parking wherever feasible.

D. **Parking Configuration/Management.** Parking configurations and/or parking management programs that are difficult to maintain and enforce shall not be permitted.

21.40.100 – Off-Site Parking

A. **Applicability.** This section shall apply to any nonresidential development where ~~involving a parking facility or any~~ all or a portion of required parking is not located on the same site it is intended to serve.

B. **Standards for Off-site Parking Facilities.** An off-site parking facility shall comply with the following standards:

1. The parking facility shall be located within a 500 foot ~~convenient~~ distance unless alternative transportation provided to the use it is intended to serve;

2. On-street parking shall not be counted towards meeting any parking requirements;

3. The off-site, off-street parking shall not impact public parking available for coastal access;

4. Use of the parking facility shall not create undue traffic hazards or impacts in the surrounding area; and

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

6. Public parking facilities may only be used as an off-site parking facility as part of an overall Parking Management Plan.

C. **Parking Agreement.** A parking agreement, which guarantees the long-term availability of the parking facility for the use it is intended to serve, shall be recorded with the County Recorder's Office. The agreement shall be in a form approved by the City Attorney and the Director.

D. **Loss of Off-Site Parking.**

1. **Notification of City.** The owner or operator of a business that uses an approved off-site parking facility to satisfy the parking requirements of this chapter shall immediately notify the Director of any change of ownership or use of the property where the spaces are located, or changes in the use that the spaces are intended to serve, or of any termination or default of the agreement between the parties.

2. **Effect of Termination of Agreement.** Upon notification that the agreement for the required off-site parking has terminated, the Director shall establish a reasonable time in which one of the following shall occur:

a. Substitute parking is provided that is acceptable to the Director; or

b. The size or capacity of the use is reduced in proportion to the parking spaces lost.

21.40.110 – Adjustments to Off-Street Parking Requirements

The number of parking spaces required by this chapter may be reduced only in compliance with the following standards and procedures.

A. **Reduction of Required Off-Street Parking.** Off-street parking requirements may be reduced as follows:

1. **Reduced Parking Demand.** Required off-street parking may be reduced in compliance with the following conditions:

a. The applicant has provided sufficient data, including a parking study if

required by the Director, to indicate that parking demand will be less than the required number of spaces or that other parking is available (e.g., City parking lot located nearby, on-street parking available, greater than normal walk in trade, mixed-use development); and

b. A parking management plan shall be prepared in compliance with subsection (~~C~~B) of this section (Parking Management Plan).

2. **Joint Use of Parking Facilities.** Required off-street parking may be reduced where two or more nonresidential uses on the same site or immediately adjacent sites have distinct and differing peak parking demands (e.g., a theater and a bank). The review authority may grant a joint use of parking spaces between the uses that results in a reduction in the total number of required parking spaces.

~~C~~B. **Parking Management Plan.** When a parking management plan to mitigate impacts associated with a reduction in the number of required parking spaces is proposed, as allowed ~~required~~ by this chapter, the parking management plan may include, but is not limited to, the following when required by the review authority:

1. Restricting land uses to those that have hours or days of operation so that the same parking spaces can be used by two or more uses without conflict;

2. Restricting land uses with high parking demand characteristics;

3. Securing off-site parking;

4. Providing parking attendants and valet parking; ~~and~~

5. Utilization of Transportation Demand Management strategies that promote the use of alternative transportation modes (e.g., ridesharing, carpools, vanpools, public transit, shuttles, bicycles and walking) pursuant to Section 21.44.035 (Transportation Demand Management); and

~~5~~6. Other appropriate mitigation measures.

~~D~~C. **Required Data.** In reaching a decision to allow a reduction of required parking spaces, the review authority shall consider data submitted by the applicant or collected/prepared at the applicant's expense and any other data that is available to the review authority.

~~E~~D. **Impact to Coastal Access Prohibited.** No application for a reduction in the number of off-street parking requirements shall be approved that impacts public parking available for coastal access.

21.40.120 – Parking Management Districts

Properties within a parking management (PM) overlay district may be exempted from all or part of the off-street parking requirements of this chapter in compliance with the provisions of the adopted parking management district plan per Section 21.28.030(Parking Management (PM) Overlay District).

21.40.130 – In-Lieu Parking Fee

The number of parking spaces required by Section 21.40.040 (Off-Street Parking Spaces Required) may be reduced pursuant to an adopted Parking District Management Plan if the review authority authorizes the use of an in-lieu fee to be paid by the applicant towards the development of public parking facilities and/or implementation of a non-automobile circulation system. The in-lieu fee shall be paid to the Citywide Parking Improvement Trust Fund. The amount of the fee and time of payment shall be established by Council resolution and shall be commensurate with actual market value cost for the provision of off-street parking space.

~~**21.40.145 – Preferential Parking Zones**~~

~~A. **Establishment.** The City Council may designate, by ordinance, certain residential streets or alleys or any portions thereof, as preferential parking zones for the benefit of residents adjacent thereto, in which zone vehicles displaying a permit or other authorized indicia may be exempt from parking prohibitions or restrictions otherwise posted, marked or noticed.~~

~~B. **Coastal Development Permit Required.** A coastal development permit approved by the City Council shall be required to establish a new or modify an existing preferential parking zone in the Coastal Zone.~~

~~C. **Establishment of Preferential Parking Zones.** Each preferential parking zone shall be designated only upon the City Council finding:~~

~~1. That such zone is required to enhance or protect the quality of life in the area of the proposed zone threatened by noise, traffic hazards, environmental pollution or devaluation of real property resulting from long-term nonresidents parking, that such zone is necessary to provide reasonably available and convenient parking for the benefit of the adjacent residents; and~~

~~2. That the proposed zone is desirable to alleviate traffic congestion, illegal parking and related health and safety problems; and~~

~~3. That the establishment of the preferential parking zone will not have a direct impact to coastal access.~~

~~D. **Criteria for Determination of Findings.** The findings referred to in Subsection (C) shall be based upon the following criteria, supported by substantial evidence in the record and established to the satisfaction of the City Council:~~

~~1. The parking in the area by nonresidents does substantially and regularly interfere with the use of the majority of the available public street or alley parking spaces by adjacent residents;~~

~~2. That the interference by the nonresidents parking referred to above occurs at regular and significant daily or weekly intervals;~~

3. That nonresidents parking is a source of unreasonable noise, traffic hazards, environmental pollution or devaluation of real property in the area of the proposed zone;

4. That the majority of households and property owners adjacent to the proposed zone desire, agree to or request preferential parking privileges;

5. That no unreasonable displacement of nonresident vehicles will occur in surrounding residential areas;

6. That public rights of access to, and along the shoreline and coastal blufftops are not directly impacted, including impacts to the use and capacity of public parking;

7. That consideration was given to the availability of, and opportunities for, alternative modes of transportation;

8. That a shortage of reasonably available and convenient residentially related parking spaces exists in the area of the proposed zone; and

9. That no alternative solution is feasible or practical.

E. **Periodic Review.** Coastal development permits establishing preferential parking zones shall be periodically reviewed and, if necessary, modified, to insure that the criteria used to establish the preferential parking zone reflect current conditions.

F. **Parking Permits.**

1. **Number.** A maximum of four (4) annual permits for preferential parking may be issued for each qualified dwelling unit to any qualified applicant

2. **Fees.** Permit fees shall be established by resolution of the City Council and shall be progressive for dwelling units with multiple permits.

3. **Use of Funds.** Permit fees collected for preferential parking in the Coastal Zone shall be deposited into a special fund to be used to fund programs to mitigate impacts to coastal access and parking facilities.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.44 – Transportation and Circulation

Sections:

21.44.010 Purpose
21.44.020 Site Design
21.44.035 Transportation Demand Management
21.44.045 Vacations and Abandonments
21.44.055 Temporary Street Closures

21.44.010 – Purpose

The purposes of this chapter are to promote alternative transportation and to protect public access infrastructure within the Coastal Zone.

21.44.025 – Alternative Transportation

A. **Site Design.** New development shall incorporate the following alternative transportation design and site characteristics, where feasible:

1. Employment, retail, and entertainment districts and coastal recreational areas should be well served by public transit and easily accessible to pedestrians and bicyclists.

2. Streets, sidewalks, bicycle paths, and recreational trails (including the Coastal Trail) should be designed and regulated to encourage walking, bicycling, and transit ridership.

3. Provide connections to existing and proposed bikeways and trail systems.

4. Maintain, expand, and encourage the use of bikeways and trails as alternative circulation routes.

B. **Public Water Transportation**. Pedestrian access and waiting areas shall be provided on waterfront sites where public water transportation exists or is anticipated to exist within five (5) years.

21.44.035 – Transportation Demand Management

A. **Applicability.** The requirements of this section shall apply to all new nonresidential ~~projects~~development, nonresidential portions of mixed-use projects, and employment centers that are estimated to employ ~~two hundred fifty (250)~~ 100 or more persons. Additionally, all new nonresidential development between the sea and the first public road shall be required to incorporate the appropriate transportation demand

management facilities or measures where feasible.

B. **Transportation Demand Management Program.** Applicants for projects covered by this section shall prepare a transportation demand management program applicable to the proposed project that will:

1. Reduce the number of peak-period vehicle trips generated in association with the proposed project;

2. Promote and encourage the use of alternative transportation modes (e.g., ridesharing, carpools, vanpools, public transit, bicycles and walking); ~~and~~

3. Provide incentives for the use of alternative transportation modes and public transit ridership (e.g. subsidies for transit use, shuttles to transit stations); and

4. Provide those facilities that support alternate transportation modes.

~~B~~C. **Site Development Requirements.** Projects subject to the requirements of this chapter shall be subject to the following site development requirements. Required improvements shall be reviewed and approved by the review authority concurrent with other project approvals.

1. **Carpool Parking**. A parking space shall be reserved and designated for each identified carpool vehicle. Carpool spaces shall only be used by carpool vehicles and shall be located near the employee entrance or at other preferential locations, as approved by the City Traffic Engineer.

2. **Bicycle Racks/Lockers.** Bicycle lockers or bicycle racks, as determined by the review authority, shall be provided for use by employees or tenants. Lockers may be located in a required parking space.

3. **Lockers and Showers.** Showers and lockers shall be required by the review authority based on the total number of anticipated employees.

4. **Information on Transportation Alternatives.** A commuter information area shall be provided in one or more central areas that are accessible to all employees or tenants. Information shall include, but not be limited to, current maps, routes and schedules for public transit; ridesharing match lists; available commuter incentives and ridesharing promotional material supplied by commuter-oriented organizations.

5. **Rideshare Vehicle Loading Area.** A rideshare vehicle loading area shall be designated at a location approved by the City Traffic Engineer based on the total number of anticipated employees.

6. **Vanpool Accessibility.** Vanpool spaces shall be reserved and designated for each identified vanpool in compliance with the approved plan. The spaces shall be located near the employee entrance or other preferential location as approved by the City Traffic Engineer.

7. **Bus Stop Improvements.** Bus stop improvements, including bus pullouts, bus pads, and right-of-way for bus benches and shelters shall be required for developments located along arterials where public transit exists or is anticipated to exist within five years. Improvements shall be developed in consideration of the level of transit ridership and the impact of stopped buses on other traffic.

8. **Sidewalks.** Sidewalks or other paved pathways connecting the external pedestrian circulation system to each building in the development shall be provided.

~~C~~D. **Equivalent Facilities or Measures.** The project applicant shall have the option of deleting or modifying any or all of the site development requirements if equivalent facilities or measures are provided. The applicant shall demonstrate the equivalency of the proposed measures to the satisfaction of the applicable review authority.

21.44.045 – Vacations and Abandonments

A. **Authority.** The City Council shall have the authority to approve, conditionally approve, or disapprove applications to vacate public rights of way and to abandon public service easements where a finding of consistency can be made with the Local Coastal Program and, where applicable, with the public access and recreation policies of Chapter 3 of the Coastal Act.

B. **Coastal Development Permit Required.** The ~~following types of v~~ Vacations, ~~and~~ abandonments, or any other transfer to a private entity of any public land or interest in public land (including a road easement or right-of-way) in the Coastal Zone shall require a coastal development permit, subject to the following limitations:

1. **Conversion to Private Streets.** The conversion of public streets to private streets is ~~only allowed where~~ prohibited unless, in addition to the findings required for the coastal development permit application in Section 21.52.015 (F), findings are made, supported by substantial evidence, that such a conversion is consistent with applicable provisions of the certified LCP and, if located between the nearest public road and the sea, the public access and recreation policies of Chapter 3 of the Coastal Act, including but not limited to, specific findings that conversion of a public street to a private street would not inhibit public access to and along the shoreline and to beaches, coastal parks, trails, or coastal bluffs.

2. **Public Street Ends.** No public street end identified as providing public access by the Coastal Land Use Plan shall be vacated, abandoned or transferred to a private entity unless in association with an approved coastal development permit for a project which incorporates within its design a provision for equal or superior coastal access for the public.

3. **Coastal Access Easements.** No coastal access easement shall be abandoned or transferred to a private entity ~~unless determined by the City Council~~

~~that the abandonment is consistent with the policies of the Coastal Land Use Plan~~ unless in association with an approved coastal development permit for a project which incorporates within its design a provision for equal or superior coastal access for the public.

C. **Procedure.** Vacations and abandonments shall be processed by filing an application for vacation or abandonment pursuant to Streets and Highways Code Sections 8300 8363 and by filing an application for a coastal development permit pursuant to Chapter 21.50 and Chapter 21.52.

D. **Water-front Property.** Pursuant to Section 1402 of the City Charter, no public water-front or beach property shall be sold or conveyed other than to the State or to the County for use as a public beach or park.

21.44.055 – Temporary Street Closures

A. **General.** Temporary closing of portions of any street for celebrations, parades, local special events, and other purposes when necessary for public safety shall be permitted pursuant to Section 21101 of the Vehicle Code.

B. **West Newport.** Temporarily close certain streets in West Newport for a period of no more than twenty-four (24) hours during the Independence Day holiday shall be permitted when, in the opinion of the Police Chief or his designee, the closure is necessary to protect the public safety. In no event shall any street closure prevent or interfere with the public's access to the beach or bay.

C. **Coastal Development Permit.** The need for a coastal development permit shall be determined in accordance with Chapter 21.52.

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification
Double Underlined Bold Text = Language modifications made at 9/8/16 Commission meeting
~~**Double Strike-Out Bold Text**~~ = Language deleted as part of modifications made at 9/8/16 Commission meeting

Chapter 21.48 – Standards for Specific Land Uses

Sections:

21.48.010 Purpose
21.48.025 Visitor Accommodations
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21.48.010 – Purpose

This chapter provides additional site planning, development, and operational standards for a variety of specified land uses.

21.48.025 – Visitor Accommodations

A. **Applicability.** The provisions of this section shall apply to applications involving the development of new visitor accommodations or the expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of existing visitor accommodations.

B. **Considerations.** The review authority shall consider:

1. The development's ability to protect, encourage, or provide low cost visitor-serving and recreational facilities on the project site or in the immediately adjacent area; and

2. The development's impact to, and ability to provide, public recreational opportunities;

3. The feasibility to rehabilitate existing low cost accommodations to meet a minimum acceptable level of comfort and hospitality while maintaining the ability to provide low cost visitor accommodations; and

4. The range of room types and room rates Citywide.

C. **Protection of ~~Existing~~ Low Cost Visitor Accommodations.**

1. **Low, Moderate, and High Cost Visitor Accommodations Defined**. For purposes of this subsection, visitor accommodations shall be defined as low, moderate, or high cost as follows:

   Low Cost – The average daily room rate of all economy hotels and motels in the City that have room rates that are below the statewide average daily room rate or lower. Economy hotels and motels are AAA-rated one or two diamond hotels, or equivalent.

   Moderate Cost – The average daily room rate is between low cost and high cost.

   High Cost – The average daily room rate is 120 percent of the statewide average daily room rate or greater.

   For purposes of this section, room rate shall include the equivalent rental rate for campgrounds, recreational vehicle parks, hostels, and similar visitor accommodations.

2. **Feasibility Analysis Required.** An analysis of the feasibility of providing lower cost visitor accommodations shall be required for any application involving the expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of any project involving visitor accommodations, with the exception of short-term lodging. If the proposed rates are not lower cost, the feasibility study shall explain why providing lower cost accommodations as part of the project is not feasible. This explanation shall address: the land value; development costs; a breakdown of the estimated annual revenues (including average daily rate and occupancy rates); a breakdown of the estimated operating costs; and any other information necessary to address the feasibility of providing lower cost accommodations on site.

   The feasibility analysis shall be prepared at the applicant's expense.

3. **Impact Analysis Required.** An analysis of a development's impact on the availability of lower cost visitor accommodations in the City shall be required for any application involving:

   a. ~~t~~The expansion, reduction, redevelopment, demolition, conversion, closure, or cessation of ~~existing low cost~~ any project involving visitor accommodations, with the exception of short-term lodging; or

   b. New or limited-use overnight visitor accommodations.

   The impact analysis shall be prepared at the applicant's expense.

4. **Impact Defined.** The proposed development would ~~directly~~ result in the ~~demolition, conversion, closure, or cessation~~ decrease in the available supply of existing lower cost visitor accommodations, or would fail to provide a range of

affordability, including at least 25% of the rooms as low cost accommodations, or fail to use land suitable for lower cost accommodations for that purpose with the exception of short-term lodging.

5. **Mitigation.** If the review authority determines that the development will impact existing lower cost visitor-serving accommodations, or provide only high or moderate cost visitor accommodations or limited use overnight visitor accommodations such as timeshares, fractional ownership and condominium-hotels, then mitigation commensurate with the impact shall be provided by one of more of the following:

   a. ~~r~~Replacement of low cost rooms lost shall be provided at a one-to-one ratio either on-site or a suitable off-site location within the City~~, or~~

   b. ~~p~~Payment of an in-lieu fee commensurate with the impact shall be required; or

   c. Programmatic components that provide low cost overnight accommodations; or

   d. Other form of mitigation addressing cost of stay.

   The review authority may authorize deviations from development standards that provide economic incentives to the development to maintain affordability.

6. **In-Lieu Fee Program** Specific detailed information regarding calculation and use of any required in-lieu fees as part of a mitigation program shall be included as a condition of approval of the Coastal Development Permit for the visitor accommodations.

7. **Rate Control and Income Eligibility Requirements Prohibited.** In no event shall a development as mitigation be required:

   a. To provide overnight room rental be fixed at an amount certain; or

   b. To establish any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

8. **Protection of Short-term Lodging.** Most short-term lodging units meet the low cost definition when maximum occupancy is taken into account. Short-term lodgings can accommodate more people than a typical hotel room. They also provide full-sized, equipped kitchens allowing families or larger groups to reduce the overall cost of a visit by allowing them to prepare meals as an alternative to dining out. The City shall continue to permit short-term lodgings as a means of providing lower-cost overnight visitor accommodations while continuing to prevent conditions leading to increase demand for City services and adverse impacts in residential areas and coastal resources.

D. **Conversion to LUOVA Prohibited.** The conversion of any hotel or motel unit or similar visitor accommodation for which a certificate of occupancy has been issued on or before July 14, 2009, to a limited-use overnight visitor accommodations (LUOVA) shall be prohibited, except as provided in subsection (1) of this subsection.

1. **Exceptions to Conversion Prohibitions.** A LUOVA project shall be permitted on the hotel resort property located at 1107 Jamboree Road, ~~such~~ subject to a coastal development permit conditioned with the following requirements:

a. LUOVA units shall be provided together with traditional overnight, hotel visitor accommodations; and

b. A minimum of three hundred and ninety-one (391) traditional hotel units shall remain available for transient overnight use by the general public year round and no more than eighty-eight (88) of the total four hundred and seventy-nine (479) units planned may be LUOVA units; and

c. Owner use of LUOVA units shall not exceed a maximum of ninety (90) days per calendar year with a maximum of twenty-nine (29) days of use during any sixty (60) day period; and

d. LUOVA units shall be maintained by the management of the hotel facility and shall be remain available for transient overnight use by the general public when not occupied by the owner; and

e. The hotel owner/operator shall retain control and ownership of all land, structures, recreational amenities, meeting space, restaurants, and other non-guest room/units; and

f. The proposed LUOVA project shall comply with the provisions of subsection (C) of this section.

E. **Tsunami Information and Evacuation Plans.** Visitor-serving accommodations in areas identified as susceptible to tsunami inundation shall be required to provide guests with information on tsunami information and evacuation plans.

21.48.035 – Newport Harbor

A. **Priority of Uses.** Priority shall be given to coastal-dependent uses over other uses on or near the shoreline. When appropriate, coastal-related developments shall be accommodated within reasonable proximity to the coastal-dependent uses they support.

B. **Development Standards.** Where applicable, development in Newport Harbor shall:

1. Protect, and where feasible, expand and enhance vessel-launching facilities in Newport Harbor;

2. Protect, and where feasible, expand and enhance low-cost public launching facilities, such as trailer launch ramps, boat hoists, commercial landing facilities, and organized recreational boating launch facilities;

3. Provide a variety of berthing opportunities reflecting State and regional demand for slip size and affordability throughout Newport Harbor;

4. Protect, and where feasible, enhance and expand marinas and dry boat storage facilities;

5. Protect, and where feasible, expand and enhance shore moorings and offshore moorings as an important source of low-cost public access to the water and harbor;

6. Protect, and where feasible, enhance and expand dinghy docks, guest docks at public facilities, yacht clubs and at privately owned marinas, restaurants and other appropriate locations;

7. Protect, and where feasible, expand and enhance facilities and services for visiting vessels, including public mooring and docking facilities, dinghy docks, guest docks, club guest docks, pump-out stations and other features through City, County, and private means;

8. Protect, and where feasible, expand and enhance facilities necessary to support vessels berthed or moored in the harbor, such as boat haul-out facilities;

9. Protect, and where feasible, expand and enhance existing harbor support uses serving the needs of existing waterfront uses, recreational boaters, the boating community and visiting vessels;

10. Support private sector uses, such as vessel assistance, that provide emergency, environmental enhancement and other services that are not provided by the public sector and that are essential to the operation of a harbor;

11. Provide, expand and enhance, where feasible, existing recurring and year-round harbor special permits and special purpose uses such as boat shows and boating festivals, boat sales displays and delivery/commissioning facilities.

21.48.045 – Light Industrial Uses

This section provides standards for ~~industrial~~ industry, manufacturing and processing, and warehousing uses permitted in commercial, mixed-use and planned community coastal zoning districts.

A. Priority shall be given to coastal-dependent and coastal-related industrial ~~uses~~ development over other ~~industrial uses in I districts~~ developments on or near the shoreline. Coastal-dependent industrial facilities shall be encouraged to locate or expand within existing sites and allowed reasonable long-term growth.

B. New hazardous industrial development shall be located away from existing developed areas, where feasible.

21.48.055 – Public Beaches

A. **General.** Public beaches shall be protected as a means of providing free and lower-cost recreational opportunities.

B. **Limits on Uses.** Land uses and development on public sandy beach~~es~~ areas shall be limited to those structures directly supportive of visitor-serving and recreational uses, such as public safety facilities, restroom facilities, showers, bikeways, walkways, public recreation facilities, and similar public facilities. Such structures shall be designed and sited to minimize impacts to public coastal views.

C. **Parking.** Public parking shall be permitted provided there are no significant adverse impacts to public beaches or the public's right of access to the bay and ocean. Any proposed change(s) to existing public parking shall be reviewed to determine whether an amendment to an existing coastal development permit or a new coastal development permit is required.

D. **Dory Fleet.** The historic Dory Fishing Fleet shall be permitted to be launched and stored and to sell fish on the public beach adjacent to Newport Pier, subject to the following regulations:.

1. **Location.** The Dory Fishing Fleet Zone is delineated by existing pilings erected by the City.

2. **Limits on Operation.**

   a. The Dory Fishing Fleet Zone shall be reserved for full time Dory Fishermen who derive their livelihood from commercial fishing.

   b. Dory fishing vessels allowed to be launched and stored on the public beach shall be a traditional Dory design vessel (i.e., a small, shallow-draft boat, approximately 16 to 23 feet long).

   c. The Dory Fishing Fleet Zone is not to be used as a launching facility for itinerant commercial or sport fishing enterprises.

   d. The Dory sheds permitted within the designated boundaries are to be used by the Dory Fishermen only for the storage of equipment and supplies and are not to be used for temporary or permanent human habitation .

3. **Limits on Development.** A maximum of twenty (20) dory storage sheds, no larger than ten (10) feet by ten (10), with roof ridge heights not to exceed nine (9) feet, shall be permitted.

E. ~~**Use of Beaches at Night**~~**Beach Hours.**

1. **Existing Restrictions.** Since 1947, the City of Newport Beach has regulated the use of the public beaches at night for the preservation of public health, peace, and safety. Use of any public bay, beach, or ocean front shall be consistent with

the ~~Newport Beach Municipal Code.~~ certified LCP. Beach hours ~~**in effect prior to February 1, 1973, may continue to be effective**~~ **shall be from 6:00 a.m. to 10:00 p.m.**

2. **Access to State Tidelands.** A public beach closure/curfew by the City cannot apply to the area seaward of the mean high tide line. Public access to the water's edge and at least 20 feet inland of the wet sand of all beaches shall be permitted at all times. Existing or new signage at beaches or beach parking lots shall not indicate or suggest a prohibition of public access to the shoreline at any time and any replacement or new signs shall explain the public's right to gain access to State tidelands as defined above at all hours for recreational activities. Nothing in this LCP shall be construed as placing any limit or prohibition on the public's right to gain access to State tidelands as defined above.

3. **Amendment Required to Change Beach Hours.** Any change in the beach regulations or hours set forth in subsection (E)(1) above resulting in a closure to public use of any portion of the beach inland of the mean high tide line shall require an amendment to this Implementation Plan approved by the Coastal Commission.

4. **Emergency Closures.** During public emergencies where a law enforcement agency temporarily closes a beach, parking lot, accessway or other coastal recreational facility to protect life or property, the closure shall remain in effect only for the duration of the emergency.~~; and~~

5. **Closures to Abate Public Nuisances.** Pursuant to Coastal Act Section 30005, in situations where the City has declared a public nuisance the abatement of which requires a closure, the closure shall remain in effect only until the declared nuisance is abated.

21.48.085 – Public Trust Lands

A. **Applicability.** Public Trust Lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the Public Trust at any time.

B. **Limits on Uses.** Public Trust Lands are subject to the Common Law Public Trust, which limits uses to navigation, fishing, commerce, public access, water-oriented recreation, open space and environmental protection.

C. **Exceptions.** State legislation has modified public trust restrictions for the historic tidelands in Beacon Bay, the Balboa Bay Club, and Harbor Island.

1. **Beacon Bay.** The Beacon Bay Bill (Chapter 74, Statutes of 1978) and Senate Bill 573 (Chapter 317, Statutes of 1997) allow the residential lots of Beacon Bay located within State tidelands to be leased for residential purposes until June 27, 2043.

2. **Balboa Bay Resort.** The Beacon Bay Bill (Chapter 74 of the Statutes of 1978) and Assembly Bill 3139 (Chapter 728, Statutes of 1994) allow Parcel D of the Balboa Bay Resort to be leased for residential purposes until December 31, 2044.

3. **Harbor Island.** Chapter 715, Statutes of 1984 allow the filled or reclaimed land on Harbor Island to be leased for non-permanent recreational and landscaping purposes until March 22, 2047.

D. **Leases.** The following restrictions shall apply to leases of public trust lands:

1. **Use of Leases.** In the event public trust lands are used for commercial purposes by an entity other than the City, the City shall use leases to implement the provisions of this Article. The City shall transition any public trust lands currently on annual permits to leases unless the City makes findings that a permit is more appropriate than a lease.

2. **Land Use.** Land uses shall be consistent with the public trust land use restrictions. Priority shall be given to the provision of coastal-dependent uses.

3. **Public Access.** Public access shall be provided in a manner consistent with Chapter 21.30A (Public Access and Recreation) and the public access and recreation policies of Chapter 3 of the Coastal Act.

4. **Revenue.** Rental rates in the leases under this section shall be based upon the fair market value, as determined by an authorized appraiser, survey, or other appropriate valuation method, of the uses authorized in the lease or permit and as established by City Council.

~~**21.48.095 – Special Events**~~

~~A. **Purpose.** To provide regulations allowing for special events while mitigating impacts on residents, visitors and businesses, maintaining traffic circulation, and ensuring public safety.~~

~~B. **Applicability.** This section shall apply activities of a duration that does not exceed a two (2) week period on a continual basis, or does not exceed a consecutive four (4) month period on an intermittent basis.~~

~~C. **Coastal Development Permit Required.** A coastal development permit shall be required for any special event meeting the following criteria:~~

~~1. Involves an activity or use that constitutes development as defined in Section 30106 of the Coastal Act; and~~

~~2. Involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available to the general public for public recreation, beach access or access to coastal waters; and~~

~~3. Occurs on and between Memorial Day weekend and Labor Day and will be more than one day in duration, including set-up and take-down; or~~

4. Occupies any portion of a public sandy beach, unless the location is remote with minimal demand for public use; or

5. There is the potential for adverse effect of sensitive coastal resources; or

6. A fee will be charged for general public admission and/or seating where no fee is currently charged for use or event of the same area (not including booth or entry fees); unless, if a fee is charged, it is for preferred seating only and more than seventy-five (75) percent of the provided seating capacity is available free of charge for general public use; or

7. Involves permanent structures or structures that involve grading or landform alteration for installation.

D. **Imposition of Conditions.** Conditions may be imposed when necessary to minimize impacts to public access, recreation and coastal resources.

21.48.105 – Limited Duration Uses and Structures

A. **Purpose.** The purpose of this section is to consider applicant requests for uses of limited duration (e.g., interim, nonpermanent, and/or seasonal in nature) that would be compatible with adjacent and surrounding uses when conducted in compliance with this section.

B. **Applicability.** This section allows limited duration uses that might not meet the development or use standards of the applicable coastal zoning district, but may otherwise be acceptable because of their temporary or limited nature.

C. [RESERVED]**Coastal Development Permits**. A coastal development permit shall not be required for a limited duration use or structure conducted in compliance with this section.

D. **Exempt Limited Duration Uses.** The following limited duration uses are exempt from the provisions of this section. Uses that do not fall within the categories defined below shall comply with subsection (E) of this section (Allowed Limited Duration Uses).

1. **Construction Yards—On Site.**

   a. On-site contractors' construction yard(s), including temporary storage and office trailers, in conjunction with an approved construction project on the same lot.

   b. One adult caretaker may be present during nonconstruction hours for security purposes.

   c. The construction yard shall be removed immediately upon completion of the construction project, or the expiration of the building permit.

2. **Emergency Facilities.** Emergency public health and safety needs/land use activities.

3. **Personal Property (e.g., Garage and/or Yard) Sales on Private Property.** Personal property sales conducted on private property.

4. **Special Events.** Special events pursuant to Section 21.48.095.

E. **Allowed Limited Duration Uses.** The following limited duration uses are allowed, subject to the approval of the Zoning Administrator.

1. **Contractors' Construction Yards—Off-Site.** Off-site contractors' construction yard(s), in conjunction with an approved construction project. The use may be allowed for up to twelve (12) months, or the expiration of the building permit.

2. **Off-Site Parking for Marine Activities.** Off-site parking for marine activities uses for not more than twelve (12) months.

3. **Seasonal Sales.** Seasonal sales including holiday boutiques, Halloween pumpkin sales and Christmas tree sale lots only by businesses holding a valid business license; provided, the activity may only be held from October 1st through October 31st of the same year for the Halloween pumpkin sales, and from the day after Thanksgiving through December 26th for Christmas tree sales.

4. **Limited Duration Sales and/or Work Trailers.** A trailer or mobile home may be used for limited duration sales activities (e.g., model home sales, etc.) or as a limited duration work site for employees of a business.

a. A trailer or mobile home may be used:

i. During construction or remodeling of a permanent commercial, industrial, and mixed-use structure, when a valid building permit is in force; or

ii. Upon demonstration by the applicant that the limited duration work site is a necessity, while a permanent work site is being obtained.

b. A limited duration trailer(s) may be allowed for up to twelve (12) months and may be extended for a longer period in conjunction with a valid building permit.

5. **Limited Duration Structures.** A limited duration classroom, office, or similar portable structure, including a manufactured or mobile unit, may be approved for a maximum time period of twelve (12) months in the commercial, industrial, and mixed-use coastal zoning districts.

6. **Limited Duration Use of a Vacant Lot.** The limited duration use of a vacant lot with nonpermanent structural improvements, for a use typically allowed within the coastal zoning district, may be approved for a maximum time period of twelve (12) months in the commercial, industrial, and mixed-use coastal zoning districts.

7. **Other Similar Limited Duration Uses.** Similar limited duration uses that, in the opinion of the Director, are compatible with the subject coastal zoning district and surrounding uses.

8. Telecommunications Facilities. A temporary telecommunications facility may be approved consistent with Chapter 21.49 for up to twelve (12) months.

F. **Review Authority.**

1. ~~Limited duration uses may be approved, conditionally approved, or denied by the Zoning Administrator, in compliance with this section.~~

2. ~~The Zoning Administrator may instead refer the application for a limited duration use to the Commission for consideration and final action when, in the Zoning Administrator's judgment, there may be public interest, controversy, or issues requiring a public forum due to the nature of the request.~~

G. ~~**Findings and Decision.** The Zoning Administrator (or the Commission on a referral or appeal) may approve or conditionally approve a limited duration use, only after first finding all of the following:~~

1. ~~The limited duration use or structure will result in no adverse impact on opportunities for public use of or access to the area due to the proposed location and or timing of the use or structure;~~

2. ~~There will be no direct or indirect impacts from the limited duration use or structure and its associated activities or access requirements on environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in this Implementation Plan.~~

H. ~~**Conditions of Approval.** In approving a limited duration use, the review authority may impose conditions that are deemed necessary to ensure that the use would be in full compliance with the findings required by subsection (G) of this section (Findings and Decision).~~

I. ~~**Fixed Period of Time.** Unless otherwise stated, a provision for a fixed period of time not to exceed thirty (30) days for a limited duration use not occupying a structure, including promotional activities, or twelve (12) months for all other limited duration uses or structures, or for a shorter period of time as requested by the applicant and determined appropriate by the Zoning Administrator;~~

J. ~~**Extension.** The Zoning Administrator may extend the time limit for the limited duration use, upon request of the applicant and for good cause shown, up to a maximum time equal to the original approval, but not to exceed twelve (12) additional months, with a maximum of twenty-four (24) months total.~~

21.48.115 – Short-term Lodging

A. **Purpose.** This section provides standards for the operation of short-term lodging units to prevent over-burdening City services and adverse impacts on residential neighborhoods and on coastal access and resources.

B. **Zoning Districts and Planned Communities.** No short-term lodging unit shall be permitted on any parcel in the R-1 (Single-Unit Residential) Coastal Zoning District or any parcel designated for single-unit dwelling land use as part of a Planned Community development plan, unless the short-term lodging unit was legally established on or before June 1, 2004.

C. **Operational Standards.** The owner, or any other person(s) or entity(ies) that hold(s) legal and/or equitable title to the lodging unit, shall:

1. By written or oral agreement, limit overnight, occupancy of the short-term lodging unit to a specific number of occupants, with the number of occupants not to exceed that permitted Building Code and Fire Code occupancy limits.

2. Use best efforts to insure that the occupants and/or guests of the short-term lodging unit do not create unreasonable noise or disturbances, engage in disorderly conduct, or violate provisions of this code or any State Law pertaining to noise, disorderly conduct, the consumption of alcohol, or the use of illegal drugs.

3. Upon notification that occupants and/or guests of his or her short-term lodging unit have created unreasonable noise or disturbances, engaged in disorderly conduct or committed violations of this code or State Law pertaining to noise, disorderly conduct, the consumption of alcohol or the use of illegal drugs, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

4. Use best efforts to insure compliance applicable health and sanitation regulations relating to waste disposal.

5. Post a copy of any applicable permits and conditions in a conspicuous place within the unit.

6. The City Manager shall have the authority to impose additional standard conditions, applicable to all short term lodging units, as necessary to achieve the objectives of this section.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.49 – Wireless Telecommunications Facilities

Sections:

21.49.010 Purpose
21.49.020 Effect of Chapter
21.49.030 Definitions
21.49.040 Telecom Facility Preferences and Prohibited Locations
21.49.050 General Development and Design Standards
21.49.090 Modification and Collocation of Existing Telecom Facilities
21.49.120 Removal of Telecom Facilities

21.49.010 – Purpose

A. The purpose of this chapter is to provide for the installation, modification, operation and maintenance of wireless telecommunication facilities ("telecom facilities") on public and private property consistent with State and Federal law while ensuring public safety, minimizing the visual effects of telecom facilities on public streetscapes, protecting public views, and otherwise avoiding and mitigating the visual impacts of telecom facilities on the community.

B. Telecom facilities shall utilize the least obtrusive available technology in order to reduce or minimize the number of telecom facilities in the City and minimize their visual impact on the community.

C. The provisions of this chapter are not intended and shall not be interpreted to prohibit or to have the effect of prohibiting telecommunication services. This chapter shall be applied to providers, operators, and maintainers of telecommunication services regardless of whether authorized by or subject to State or Federal regulations. This chapter shall not be applied in such a manner as to unreasonably discriminate among providers of functionally equivalent telecommunication services.

21.49.020 – Effect of Chapter

A. **Regulatory Scope.** These regulations are applicable to all telecom facilities as defined herein and that provide wireless voice and/or data transmission such as, but not limited to, cell phone, Internet, and radio relay stations.

B. **Permit and Agreement Required.** ~~Unless the provisions of this chapter provide otherwise, p~~Prior to installation or modification of any telecom facility in the City, the applicant shall obtain a coastal development permit that is consistent with the provisions of this Local Coastal Program.

C. **Exempt Facilities.** The following types of telecom facilities are exempt from the provisions of this chapter unless the provisions of chapter 21.52 require a coastal development permit:

1. Amateur radio antennas and receiving satellite dish antennas, and citizen band radio antennas.

2. Dish and other antennas subject to the FCC Over-the-Air Reception Devices ("OTARD") rule, 47 C.F.R. Section 1.4000 that are designed and used to receive video programming signals from (a) direct broadcast satellite services, or (b) television broadcast stations, or (c) for wireless cable service.

3. During an emergency, upon following the requirements of Chapter 21.52.012, the City Manager, Director of Emergency Services or Assistant Director of Emergency Services shall have the authority to approve the placement of a telecom facility in any district on a temporary basis not exceeding ninety (90) calendar days from the date of authorization. Such authorization may be extended by the City on a showing of good cause.

4. Facilities exempt from some or all of the provisions of this chapter by operation of State or Federal law to the extent so determined by the ~~City~~review authority.

5. Antenna and support equipment ~~S~~systems installed or operated at the direction of the City or its contractor.

6. Antenna and support equipment ~~S~~systems installed entirely within buildings for the sole purpose of providing wireless telecommunications or data transmission services to building occupants.

D. **Other Regulations.** Notwithstanding the provisions of this chapter, all telecom facilities within the City shall comply with the following requirements:

1. Rules, regulations, policies, or conditions in any permit, license, or agreement issued by any local, State or Federal agency which has jurisdiction over the telecom facility.

2. Rules, regulations and standards of the Federal Communications Commission (FCC) and the California Public Utilities Commission (CPUC).

E. Regulations Not in Conflict or Preempted. All telecom facilities within the City shall comply with the following requirements unless in conflict with or preempted by the provisions of this chapter:

1. All applicable City design guidelines and standards.

2. Requirements established by any other provision of this Implementation Plan and by any other ordinance and regulation of the City.

F. **Legal Nonconforming Facility.** Any telecom facility that was lawfully constructed, erected, or approved prior to February 27, 2014, that is operating in compliance with all applicable laws, and which facility does not conform to the requirements of this chapter shall be deemed a legal nonconforming facility. Legal nonconforming facilities shall comply at all times with the laws, ordinances, regulations, and any conditions of approval in effect at the time the facility was approved, and any regulations pertaining to legal, nonconforming uses or structures that may be applicable pursuant to provisions of this Implementation Plan or Federal and State laws as they may be amended or enacted, in the future.

21.49.030 Definitions.

For the purposes of this chapter, the following definitions shall apply:

A. **Antenna.** "Antenna" means a device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems, such as reflecting discs, panels, microwave dishes, whip antennas, antennas, arrays, or other similar devices.

B. **Antenna Array.** "Antenna array" means antennas having transmission and/or reception elements extending in more than one direction, and directional antennas mounted upon and rotated through a vertical mast or tower interconnecting the beam and antenna support structure, all of which elements are deemed to be part of the antenna.

C. **Base Station.** "Base station" means the electronic equipment and appurtenant support equipment at a telecom facility installed and operated by the telecom operator that together perform the initial signal transmission and signal control functions. A base station does not include the antennas, antenna support structure, or any portion of distributed antenna system (DAS).

D. **Collocation.** "Collocation" means an arrangement whereby multiple telecom facilities are installed on the same building or structure.

E. **Distributed Antenna System, DAS.** "Distributed antenna system (DAS)" means a network of one or more antennas and fiber optic nodes typically mounted to streetlight poles, or utility structures, which provide access and signal transfer services to one or more third-party wireless service providers. DAS also includes the equipment location, sometimes called a "hub" or "hotel" where the DAS network is interconnected with third-party wireless service providers to provide the signal transfer services.

F. **Facility Classes.** Classes of telecom facilities and the attendant support equipment are categorized into the following classes:

1. Class 1 (Stealth/Screened): a facility with antennas mounted on an existing or proposed nonresidential building or other structure not primarily intended to be an antenna support structure where antennas and support equipment, including the base station, are fully screened so that they are not visible to the general public.

2. Class 2 (Visible Antennas): a facility with antennas mounted on an existing nonresidential building, structure, pole, light standard, utility tower, wireless tower and/or lattice tower.

3. Class 3 (Public Right-of-Way Installations): a facility with antennas installed on a structure located in the public right-of-way.

4. Class 4 (Freestanding Structure): a facility with antennas mounted on a new freestanding structure constructed for the sole or primary purpose of supporting the telecom facility.

5. Class 5 (Temporary): a facility including associated support equipment that is installed at a site on a temporary basis pursuant to a limited term permit. A Class 5 installation may also be installed in connection with a special event upon the

approval of a special events permit pursuant to Chapter 11.03 with or without a limited term permit.

G. **FCC.** "FCC" means the Federal Communications Commission, or the Federal regulatory agency charged with regulating interstate and international communications by radio, television, wire, satellite, and cable.

H. **Feasible or Feasibly.** "Feasible" or "feasibly" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account environmental, physical, legal and technological factors.

I. **Lattice Tower.** "Lattice tower" means a freestanding open framework structure used to support antennas, typically with three or four support legs of open metal crossbeams or crossbars.

J. **Monopole.** "Monopole" means a single free-standing pole or pole-based structure solely used to act as or support a telecom antenna or antenna arrays.

K. **Operator or Telecom Operator.** "Operator" or "telecom operator" means any person, firm, corporation, company, or other entity that directly or indirectly owns, leases, runs, manages, or otherwise controls a telecom facility or facilities within the City. The definition of operator or telecom operator does not include a property owner(s) that leases property to an operator for a telecom facility.

L. **Public Right-of-Way.** "Public right-of-way" ("PROW") means the improved or unimproved surface of any public street, or similar public way of any nature, dedicated or improved for vehicular, bicycle, and/or pedestrian related use. PROW includes public streets, roads, lanes, alleys, sidewalks, medians, parkways and landscaped lots. The PROW does not include private streets.

M. **Stealth or Stealth Facility.** "Stealth" or "stealth facility" means a telecom facility in which the antenna, and the support equipment, are completely hidden from view such as in a monument, cupola, pole-based structure, or other concealing structure which either mimics, or which also serves as, a natural or architectural feature. Concealing structures which are obviously not such a natural or architectural feature to the average reasonable observer do not qualify within this definition. For example, an artificial tree may not be considered to be a stealth facility.

N. **Support Equipment.** "Support equipment" means the physical, electrical and/or electronic equipment included within a telecom facility used to house, power, and/or contribute to the processing of signals from or to the facility's antenna or antennas, including but not limited to a base station, cabling, air conditioning units, equipment cabinets, pedestals, and electric service meters. Support equipment does not include DAS, antennas or the building or support structure to which the antennas or other equipment are attached.

O. **Telecommunication(s) Facility, Telecom Facility, Telecom Facilities, Wireless Telecommunications Facility, or Facility.** "Telecommunication(s) facility," "telecom facility," "telecom facilities," "wireless telecommunications facility," or simply "facility" or "facilities" means an installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are

all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.

P. **Utility Pole.** "Utility pole" means a single freestanding pole used to support services provided by a public or private utility provider.

Q. **Utility Tower.** "Utility tower" shall mean an open framework structure (see lattice tower) or steel pole used to support electric transmission facilities.

R. **Wireless Tower**. "Wireless tower" means any structure built for the sole or primary purpose of supporting antennas used to provide wireless services authorized by the FCC. A distributed antenna system (DAS) installed pursuant to a Certificate of Public Convenience and Necessity (CPCN) issued by the California Public Utilities Commission on a water tower, utility tower, street light, or other structures built or rebuilt or replaced primarily for a purpose other than supporting wireless services authorized by the FCC, including any structure installed pursuant to California Public Utility Code Section 7901, is not a wireless tower for purposes of this definition. For an example only, a prior-existing street light standard which is replaced with a new street light standard to permit the addition of antennas shall not be considered a wireless tower, but rather a replacement street light standard.

21.49.040 – Telecom Facility Preferences and Prohibited Locations

A. **Preferred Locations.** To limit the adverse visual effects of and proliferation of new or individual telecom facilities in the City, the following list establishes the order of preference of facilities, from the most preferred (1) to least preferred (4).

1. Collocation of a new facility at an existing facility.

2. Class 1.

3. Class 2 and Class 3.

4. Class 4.

B. **Prohibited Locations.** Telecom facilities are prohibited in the following locations:

1. On properties zoned for single-unit or two-unit residential development including equivalent designations within a planned community district or specific plan districts except if located on common area lots developed with community facilities, landscape lots, or private streets.

2. On properties zoned for multi-unit residential development and mixed-use development including equivalent planned community district or specific plan districts where the maximum allowable number of dwelling units is four units.

3. In the Open Space (OS) Coastal Zoning District, unless telecom facilities are collocated on an existing utility tower within a utility easement area, or collocated on an existing facility.

4. On traffic control standards (traffic signal poles).

5. Within any environmentally sensitive habitat areas, wetlands, or bluffs.

6. Any beach or between the sea and first public road paralleling the sea, unless telecom facilities are collocated on an existing utility tower within a utility easement area, or collocated on an existing facility; or other existing building.

21.49.050 – General Development and Design Standards

A. **General Criteria.** All telecom facilities shall employ design techniques to minimize visual impacts and provide appropriate screening to result in the least visually intrusive means of providing the service. Such techniques shall be employed to make the installation, appearance and operations of the facility as visually inconspicuous as practicable. To the greatest extent feasible, facilities shall be designed to minimize the visual impact of the facility by means of location, placement, height, screening, landscaping, and shall be compatible with existing architectural elements, building materials, other building characteristics, and the surrounding area.

In addition to the other design standards of this section, the following criteria shall be considered by the review authority in connection with its processing of any coastal development permit for a telecom facility:

1. **Blending.** The extent to which the proposed telecom facility blends into the surrounding environment or is architecturally compatible and integrated into the structure.

2. **Screening.** The extent to which the proposed telecom facility is concealed or screened by existing or proposed new topography, vegetation, buildings or other structures.

3. **Size.** The total size of the proposed telecom facility, particularly in relation to surrounding and supporting structures.

4. **Location.** Proposed telecom facilities shall be located so as to utilize existing natural or manmade features in the vicinity of the facility, including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening and blending with the predominant visual backdrop. Telecom facilities shall be sited outside any environmentally sensitive habitat area, wetland, or bluff and sited such that they have no adverse impact on public access and recreation.

5. **Collocation.** In evaluating whether the collocation of a telecom facility is feasible, the criteria listed in subsections (A)(1) through (4) of this section shall be used to evaluate the visual effect of the combined number of facilities at the proposed location.

B. **Public View Protection.** All new or modified telecom facilities, whether approved by administrative or discretionary review, shall comply with Section 21.30.100 (Public View Protection). In general, telecom facilities shall be located outside any public viewshed to or along the ocean, bay, beach or coastal bluffs. Additionally, potential impacts from a new or modified telecom facility to public views that are not identified by the Coastal Land Use Plan shall be evaluated to determine if inclusion in the Coastal Land Use Plan would be appropriate. If deemed appropriate for inclusion, the potential impacts to such public views shall be considered.

C. **Height.**

1. The Planning Commission or City Council may approve or conditionally approve a coastal development permit for a telecom facility that exceeds the maximum height limit for the coastal zoning district in which the facility is located; provided, it does not exceed the maximum height limit by fifteen (15) feet, only after making all of the required findings in Section 21.49.060(H) (Required Findings for Telecom Facilities).

2. All telecom facilities shall comply with height restrictions or conditions, if any, required by the Federal Aviation Administration.

3. Telecom facilities installed on streetlights, utility poles, utility towers or other similar structures within the public right-of-way shall not exceed thirty-five (35) feet in height above the finished grade.

4. Telecom facilities may be installed on existing utility poles or utility towers that exceed thirty-five (35) feet above the finished grade where the purposes of the existing utility pole or utility tower is to carry electricity or provide other wireless data transmission; provided, that the top of the proposed antennas do not extend above the top of the utility pole or utility tower.

5. Telecom facilities disguised as flagpoles may be installed provided they meet applicable height limits for flagpoles provided in Section 21.30.060.

D. **Setbacks.** Proposed telecom facilities shall comply with the required setback established by the development standards for the coastal zoning district in which the facility is proposed to be located. Setbacks shall be measured from the part of the facility closest to the applicable lot line or structure.

E. **Design Techniques.** Design techniques shall result in the installation of a telecom facility that is in harmony and scale with the surrounding area, screens the installation from view, and prevents the facility from visually dominating the surrounding area. Design techniques may include the following:

1. Screening elements to disguise, or otherwise hide the telecom facility from view from surrounding uses.

2. Painting and/or coloring the telecom facility to blend into the predominant visual backdrop.

3. Siting the telecom facility to utilize existing features (such as buildings, topography, vegetation, etc.) to screen or hide the facility.

4. Utilizing simulated natural features (trees, rocks, etc.) to screen or hide the telecom facility.

5. Providing telecom facilities of a size that, as determined by the City, is not visually obtrusive such that any effort to screen the facility would create greater visual impacts than the facility itself.

6. To the greatest extent practicable, new Class 4 facilities shall be designed and sited to facilitate the collocation of one additional telecom operator.

F. **Screening Standards.** For collocation installations, the screening method shall be materially similar to those used on the existing telecom facility, and shall not diminish the screening of the facility. If determined necessary by the review authority, use of other improved and appropriate screening methods may be required to screen the antennas and support equipment from public view. The following is a non-exclusive list of potential design and screening techniques that must be considered for all facility installations:

1. **Class 1 (Stealth/Screened) Installations.**

   a. All telecom facility components, including all antennas, antenna panels, cables, wires, conduit, mounting brackets, and support equipment, shall be fully screened, and mounted either inside the building or structure, or behind screening elements and not on the exterior face of the building or structure.

   b. Screening materials shall match in color, size, proportion, style, and quality with the exterior design and architectural character of the structure and the surrounding visual environment. If determined necessary by the reviewing authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.

   c. When a telecom facility is proposed within an existing or new architectural feature such as a steeple, religious symbol, tower, cupola, clock tower, sign tower, etc., the facility shall be architecturally compatible with the existing structure or building.

2. **Class 2 (Visible) Installations.**

   a. Building or structure mounted antennas shall be painted or otherwise coated to match or complement the predominant color of the structure on which they are mounted and shall be compatible with the architectural texture and materials of the building to which the antennas are mounted. No cables, wires, conduit, mounting brackets or any other associated support equipment shall be visible.

   b. All antenna components and support equipment shall be treated with exterior coatings of a color and texture to match the predominant visual background and/or adjacent architecture so as to visually blend in with the surrounding development. Subdued colors and nonreflective materials that blend with surrounding materials and colors shall be used.

3. **For Class 3 (Public Right-of-Way) Installations.**

   a. Whenever feasible, new antennas proposed to be installed in the public right-of-way shall be placed on existing utility structures, streetlights, or other existing vertical structures. Antenna installations on existing or replacement streetlight poles or utility poles shall be screened by means of canisters, radomes, shrouds other screening measures whenever feasible, and treated with exterior coatings of a color and texture to match the existing pole.

   b. New or replacement vertical structures may be allowed when authorized by the Municipal Code and approved by the Public Works Department.

Replacement poles or streetlights shall be consistent with the size, shape, style, and design of the existing pole, including any attached light arms. New poles or streetlights may be installed, provided they match existing or planned poles within the area.

c. If antennas are proposed to be installed without screening, they shall be flush-mounted to the pole and shall be treated with exterior coatings of a color and texture to match the pole.

4. **Class 4 (Freestanding Structure) Installations.**

a. The installation of new lattice towers or monopoles with visible antennas or antenna arrays is strongly discouraged due to the visual effects of such facilities. Preferred monopole designs include fully screened antennas without visible brackets, cables, or conduit. Additionally, any lattice tower or monopole should be sited in the least obtrusive location as practicable.

b. The construction of new freestanding structures such as signs, monoliths, pyramids, light houses, or other similar vertical structures shall be designed and sited to appropriately complement a site and screen all elements of the telecom facility.

c. The installation of artificial rocks shall match in scale and color with other rock outcroppings in the general vicinity of the proposed site. An artificial rock screen may not be considered appropriate in areas that do not have natural rock outcroppings.

d. The installation of artificial trees or shrubbery is strongly discouraged if they are obviously not natural to the average reasonable observer. When an artificial tree or shrubbery is proposed, it shall be designed for and located in a setting that is compatible with the proposed screening method. Such installations shall be situated so as to utilize existing natural or manmade features including topography, vegetation, buildings, or other structures to provide the greatest amount of visual screening. All antennas and antenna supports shall be contained within the canopy of the tree design or other vegetation comparable to that being replicated by the proposed screening elements. Finally, the addition of new comparable living vegetation may be necessary to enhance the artificial tree or shrubbery screening elements.

e. Flagpoles shall not exceed twenty-four (24) inches in width at the base of the flagpole and also shall not exceed twenty (20) inches in width at the top of the flagpole.

5. **Class 5 (Temporary) Installations.** A temporary telecom facility installation may require screening to reduce visual impacts depending on the duration of the permit and the setting of the proposed site. If screening methods are determined to be necessary by the review authority, the appropriate screening methods will be determined through the application review and permitting process in consideration of the temporary nature of the facility.

6. **Support Equipment.** All support equipment associated with the operation of any telecom facility shall be placed or mounted in the least visually obtrusive location practicable, and shall be screened from view.

a. **Installations on Private Property.** The following is a non-exclusive list of potential screening techniques for telecom facilities located on private property:

i. **Building-Mounted Telecom Facilities.** For building- or structure-mounted antenna installations, support equipment for the facility may be located inside the building, in an underground vault, or on the roof of the building that the facility is located on; provided, that both the equipment and any screening materials are architecturally compatible and/or painted the color of the building, roof, and/or surroundings thereby providing screening.

ii. **Roof-Mounted Telecom Facilities.** All screening materials for roof-mounted facilities shall be of a quality and design compatible with the architecture, color, texture and materials of the building to which it is mounted. If determined necessary by the review authority, screening to avoid adverse impacts to views from land or buildings at higher elevations shall be required.

iii. **Freestanding Telecom Facilities.** For freestanding facilities installations, not mounted on a building or structure, support equipment for the facility may be visually screened by locating the support equipment in a fully enclosed building, in an underground vault, or in a security enclosure consisting of walls and/or landscaping to effectively screen the support equipment at the time of installation.

iv. All wall and landscaping materials shall be selected so that the resulting screening will be visually integrated with the architecture and landscape architecture of the surroundings.

v. Screening enclosures may utilize graffiti-resistant and climb-resistant vinyl-clad chain link with a “closed-mesh” design (i.e., one-inch gaps) or may consist of an alternate enclosure design approved by the review authority. In general, the screening enclosure shall be made of nonreflective material and painted to blend with surrounding materials and colors.

vi. If placed in an underground vault, flush-to-grade vents, or alternatively, vents that extend no more than twenty-four (24) inches above the finished grade and are screened from public view may be utilized.

b. **Installations in a Public Right-of-Way.** The following is a non-exclusive list of potential screening techniques for telecom facilities located in a public right-of-way:

i. Where existing utilities services (e.g., telephone, power, cable TV) are located underground, the support equipment shall be placed underground if required by other provisions of the Municipal Code. Flush-to-grade underground vault enclosures, including flush-to-grade vents, or vents that extend no more than twenty-four

(24) inches above the finished grade and are screened from public view may be incorporated. Electrical meters required for the purpose of providing power for the proposed telecom facility may be installed above ground on a pedestal in a public right-of-way provided they meet applicable standards of Title 13 unless otherwise precluded by the Municipal Code.

ii. Support equipment approved to be located above ground in a public right-of-way shall be painted or otherwise coated to be visually compatible with the existing or replacement pole, lighting and/or traffic signal equipment without substantially increasing the width of the structure.

iii. All transmission or amplification equipment such as remote radio units, tower mounted amplifiers, and surge suppressors shall be mounted inside the utility or streetlight pole without materially increasing the pole diameter or shall be installed in the vault enclosure supporting the facility.

G. **Night Lighting.** Telecom facilities shall not be lighted except for security lighting at the lowest intensity necessary for that purpose or as may be recommended by the United States Flag Code (4 U.S.C. Section 1 et seq.). Such lighting shall be shielded so that direct illumination does not directly shine on nearby properties or upon any ocean, beach, bay, environmentally sensitive habitat area or wetland. The review authority shall consult with the Police Department regarding proposed security lighting for facilities on a case-by-case basis.

H. **Signs and Advertising.** No advertising signage or identifying logos shall be displayed on any telecom facility except for small identification, address, warning, and similar information plates. Such information plates shall be identified in the telecom application and shall be subject to approval by the review authority. Signage required by State or Federal regulations shall be allowed in its smallest permissible size.

I. **Nonconformities.** A proposed or modified telecom facility shall not create any new or increased nonconformity as defined in this Implementation Plan, such as, but not limited to, a reduction in and/or elimination of, required parking, landscaping, or loading zones unless relief is sought pursuant to applicable zoning code procedures.

J. **Maintenance.** The telecom operator shall be responsible for maintenance of the telecom facility in a manner consistent with the original approval of the facility, including but not limited to the following:

1. Any missing, discolored, or damaged screening shall be restored to its original permitted condition.

2. All graffiti on any components of the telecom facility shall be removed promptly in accordance with the Municipal Code.

3. All landscaping required for the telecom facility shall be maintained in a healthy condition at all times, and shall be promptly replaced if dead, dying, or damaged.

4. All telecom facilities shall be kept clean and free of litter.

5. All equipment cabinets shall display a legible contact number for reporting maintenance problems to the telecom operator.

6. If a flagpole is used for a telecom facility, flags shall be flown and shall be properly maintained at all times. The use of the United States flag shall comply with the provisions of the U.S. Flag Code (4 U.S.C. Section 1 et seq.).

K. **Prior Coastal Development Permit**. Any proposed telecom facility shall comply with the terms and conditions of any previously authorized coastal development permit that remains in effect.

20.49.090 – Modification and Collocation of Existing Telecom Facilities

Notwithstanding any provision in this chapter, a request to modify an existing facility that involves the collocation of new transmission equipment, the removal of existing transmission equipment, or the replacement of existing transmission equipment shall be subject to administrative review and approval without processing any discretionary permit provided that such modification does not substantially change the physical dimensions of the existing facility from the original permit for the facility. A substantial change means a single change, or series of changes over time, that exceeds five percent of the physical dimensions of the original approved telecom facility, or as otherwise defined by applicable provisions of State or Federal law.

Each application submitted under this section for a modification or collocation to an existing telecom facility shall be accompanied by:

A. A detailed description of the proposed modifications to the existing telecom facility(ies);

B. A photograph or description of the telecom facility as originally constructed, if available; a current photograph of the existing facility; and, a graphic depiction of the facility after modification showing all relevant dimensions;

C. A detailed description of all construction that will be performed in connection with the proposed modification; and

D. A written statement signed and stamped by a professional engineer, licensed and qualified in California, attesting that the proposed modifications do not constitute a substantial change of the existing permitted facility.

Any permit issued will be conditioned upon the accuracy of the application, and may be revoked, and the telecom facility shall be removed and restored to its pre-modification condition if any material statement made with respect to the facility application is false or the modifications as actually made would have required a discretionary review had the plan for the facility accurately depicted the modifications.

20.49.120 – Removal of Telecom Facilities

A. **Discontinued Use.** Any telecom operator who intends to abandon or discontinue use of a telecom facility must notify the Director by certified mail no less than thirty (30) days prior to such abandonment or discontinuance of use. The telecom operator or owner of the affected real property shall have ninety (90) days from the date of abandonment or discontinuance, or a reasonable additional time as may be approved by the Director, within which to complete one of the following actions:

1. Reactivate use of the telecom facility.

2. Transfer the rights to use the telecom facility to another telecom operator and the telecom operator commences use within a reasonable period of time as determined by the Director.

3. Remove the telecom facility and restore the site.

B. **Abandonment.** Any telecom facility that is not operated for transmission and/or reception for a continuous period of ninety (90) days or whose telecom operator did not remove the facility in accordance with subsection (A) of this section shall be deemed abandoned. Upon a finding of abandonment, the City shall provide notice to the telecom operator last known to use such facility and, if applicable, the owner of the affected real property, providing thirty (30) days from the date of the abandonment notice within which to complete one of the following actions:

1. Reactivate use of the telecom facility.

2. Transfer the rights to use the telecom facility to another telecom operator who has agreed to reactivate the facility within thirty (30) days of the transfer.

3. Remove the telecom facility and restore the site.

C. **Removal by City**.

1. The City may remove an abandoned telecom facility, repair any and all damage to the premises caused by such removal, and otherwise restore the premises as is appropriate to be in compliance with applicable codes at any time after thirty (30) days following the notice of abandonment.

2. If the City removes an abandoned telecom facility, the City may, but shall not be required to, store the removed facility or any part thereof. The owner of the premises upon which the abandoned facility was located and all prior operators of the facility shall be jointly liable for the entire cost of such removal, repair, restoration and storage, and shall remit payment to the City promptly after demand therefor is made. In addition, the City Council, at its option, may utilize any financial security required in conjunction with granting the telecom permit as reimbursement for such costs. Also, in lieu of storing the removed facility, the City may convert it to the City's use, sell it, or dispose of it in any manner deemed by the City to be appropriate.

D. **City Lien on Property.** Until the cost of removal, repair, restoration, and storage is paid in full, a lien shall be placed on the abandoned personal property and any real property on which the telecom facility was located for the full amount of all costs incurred by the City for the removal, repair, restoration and storage. The City Clerk shall cause the lien to be recorded with the Orange County Recorder, with the costs of filing, processing, and release of such City lien being added to the other costs listed in this subsection.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.50 – Permit Application Filing and Processing

Sections:

21.50.010 Purpose
21.50.020 Authority for Decisions
21.50.025 Projects Bisected by Jurisdictional Boundaries
21.50.030 Application Preparation and Filing
21.50.040 Application Fees
21.50.050 Initial Application Review
21.50.060 Project Evaluation and Staff Reports
21.50.070 Environmental Review
21.50.080 Posting Notice

21.50.010 – Purpose

This chapter provides procedures and requirements for the preparation, filing, and processing of permit applications required by this Implementation Plan.

21.50.020 – Authority for Decisions

A. **Review Authority.** Table 21.50-1 (Review Authority) identifies the review authority responsible for reviewing and making decisions on each type of application required by this Implementation Plan.

Table 21.50-1
Review Authority

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Administrative and Legislative							
Interpretations	Section 21.12.020	Determination (3)			Appeal	Appeal	Appeal (8)
LCP Amendments	~~Chapter 21.66~~				Recommend	Decision (4)	Decision (4)
Approvals in Concept	Section 21.52.015		Determination (3)	Determination (5)	Appeal	Appeal	
Waiver for De Minimis Development	Section 21.52.055		Determination (3)		Appeal	Appeal	
Permits and Approvals							

Type of Action	Applicable Code Chapter/Section	Role of Review Authority (1)					
		Director	Zoning Administrator	Harbor Resources Manager	Commission	Council (2)	Coastal Commission
Coastal Development Permits	Section 21.52.015		Decision (6)		Appeal	Appeal	Decision (7) Appeal (2)
Emergency Coastal Development Permits	Section 21.52.025	Decision (3)			Appeal	Appeal	

Notes:

(1) "Recommend" means that the Commission makes a recommendation to the Council; "Determination" and "Decision" mean that the review authority makes the final determination or decision on the matter; "Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision-making body, in compliance with Chapter 21.64 (Appeals and Calls for Review).

(2) The Council is the final review authority for all applications in the City. A decision by the City on a Coastal Development Permit application within the appeal areas depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map or a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission in compliance with Chapter 21.64 (Appeals and Calls for Review).

(3) The Director or Zoning Administrator may defer action and refer the request to the Commission for consideration and final action.

(4) The California~~n~~ Coastal Commission is the final decision making authority on amendments to the Local Coastal Program. ~~See Chapter 21.66 (Amendments).~~

(5) For development located on tidelands or submerged lands that did not involve a discretionary action authorized by this Implementation Plan where the authority is specifically assigned to the Council, Commission, Director, or Zoning Administrator

(6) If the project also requires another discretionary approval (e.g., conditional use permit, variance, etc.), then the applicable review authority shall be the authority for the other discretionary approval.

(7) All development on tidelands, submerged lands, and public trust lands as described in California Public Resources Code Section 30519(b) and in deferred certification areas designated by the Local Coastal Program shall require a permit issued by the Coastal Commission in accordance with procedures specified by the Coastal Commission, in addition to other permits or approvals required by the City. ~~Pursuant to Coastal Act Section 30613, permit authority on~~ This provision does not include those tidelands, submerged lands, and public trust lands ~~that are~~ where permit authority may be delegated to the City at a future date if determined by the Coastal Commission to be filled and developed and located within an area committed to urban uses~~ shall be delegated to the City~~pursuant to Coastal Act Section 30613.

(8) Appeal procedure for interpretations shall only apply to interpretations made by the Director on the determination of whether a development is categorically excluded, exempt, non-appealable or appealable to the Coastal Commission according to the dispute resolution process in compliance with Section 21.50.050(B)

21.50.025 Projects Bisected by Jurisdictional Boundaries

A. **Projects Bisected By Coastal Zone**. Where a proposed project site is physically located both within and outside the coastal zone, the following procedures apply:

1. ~~For divisions of land, a~~ A coastal development permit shall be required ~~only~~ for ~~lots~~ a lot or parcel~~s~~ proposed for subdivision that is bisected by the coastal zone boundary~~created that contain new lot lines or portions of new lot lines within the coastal zone and such review will be confined to those lots or portions of lots within the coastal zone~~.

2. For any development involving a structure or similar integrated physical construction partially in the coastal zone, a coastal development permit shall be required for the development in the coastal zone.

~~3. Pursuant to California Public Resources Code Section 30103 (b), the Coastal Commission may adjust the boundary of the coastal zone to avoid bisecting any single lot or parcel to conform it to readily identifiable natural or manmade features. The City may request, with the consent of the property owner, a landward adjustment by a maximum distance of two hundred (200) yards.~~

~~B. **Projects Bisected By Appeal Jurisdiction.** If a portion of the approved development is of the type or in a location that makes the action by the City subject to appeal, the approval of the coastal development permit is subject to appeal to the Coastal Commission.~~

~~C~~B. **Projects Bisected By City and Coastal Commission Jurisdiction.** Where a proposed development is located within both the Coastal Commission's and City's coastal development permit jurisdictions, coastal development permits are required by both the City and the Coastal Commission. Alternatively, if the applicant, the City and the Coastal Commission agree, the Coastal Commission can process a consolidated coastal development permit application pursuant to the procedures in Public Resources Code, section 30601.3. ~~The following procedures apply:~~

~~1. For divisions of land, a coastal development permit issued by the Coastal Commission shall be required only for lots or parcels created that contain new lot lines or portions of new lot lines within the area subject to the Coastal Commission's retained jurisdiction.~~

~~2. For any development involving a structure or similar integrated physical construction, a coastal development permit issued by the Coastal Commission shall be required for any structure partially in the retained jurisdiction area.~~

~~D~~C. **Projects Bisected By Different Local Government Jurisdictions.** If a project straddles the boundaries of the City and another local government, the applicant must obtain separate coastal permits from each jurisdiction. An exception is possible for public agencies that, pursuant to California Public Resources Code Section 30605, may obtain one "Public Works Plan" approval from the Coastal Commission, in lieu of locally-issued coastal permits.

21.50.030 – Application Preparation and Filing

A. **Application Contents.** Each permit application required by this Implementation Plan shall be filed with the Department on the appropriate City application form, together with all required fees and/or deposits and all other information and materials specified by the Director for the specific type of application.

B. **Eligibility for Filing.** An application may only be filed by an "applicant," as that term is defined in Chapter 21.70 (Definitions) of this Implementation Plan. ~~the owner of the subject property or authorized agent of the owner with the written consent of the property owner. The application shall be signed by the owner of record or by an authorized agent, if written authorization from the owner of record is filed concurrently with the application.~~

C. ~~**Rejection of Application.** If the Director determines that an application cannot lawfully be approved by the City, the Director shall not accept the application for processing.~~

21.50.040 – Application Fees

A. **Fee Schedule.** The Council shall establish a schedule of fees for the processing of the applications required by this Implementation Plan, hereafter referred to as the City's fee schedule adopted by resolution.

B. **Timing of Payment.** Applications shall not be deemed complete, and processing shall not commence on any application, until all required fees or deposits have been paid. Failure to timely pay supplemental requests for payment of required fees and/or deposits shall be a basis for suspension of processing or issuance of any permit.

C. **Refunds and Withdrawals.** Application fees cover City costs for public hearings, mailings, staff time and the other activities involved in processing applications. No refund for an application that is denied shall be allowed. In the case of a withdrawal by the applicant, the Director shall have the discretion to authorize a partial refund based upon the pro-rated costs to date and the status of the application at the time of withdrawal.

21.50.050 – Initial Application Review.

A. **Review for Completeness.** The Director shall review each application for completeness and accuracy before it is accepted as being complete. The determination of completeness shall be based on the City's applicable list of required application contents and any additional written instructions provided to the applicant in any preapplication conference, and/or during the initial application review period.

1. **Notification of Applicant or Authorized Agent.** Within thirty (30) calendar days of the City's receipt of an application submittal, the applicant or authorized agent shall be informed in writing, either that the application is complete and has been accepted for processing or that the application is incomplete and that additional specified information shall be provided before the application is deemed complete.

2. **Appeal of Determination.** Where the Director has determined that an application is incomplete, and the applicant believes that the application is complete and/or that any additional information requested by the Director is not required, the applicant may appeal the determination to the appropriate review authority in compliance with Chapter 21.64 (Appeals and Calls for Review).

3. **Additional Information.**

a. When the Director determines that an application is incomplete, the time used by the applicant to submit the required additional information shall not be considered part of the time within which the determination of completeness shall occur.

b. The time available to an applicant for submittal of additional information is limited by subsection (A)(4) of this section.

c. The additional specified information shall be submitted in writing.

d. The Director's review of any additional information resubmitted by the applicant shall be accomplished in compliance with subsection (A)(1) of

this section along with another thirty (30) day period of review for completeness.

4. **Expiration of Application.**

a. If an applicant fails to provide any additional information requested by the Director within sixty (60) days following the date the application was deemed incomplete, the application shall be deemed withdrawn without any further action by the City.

b. After the expiration of an application, future City consideration shall require the submittal of a new, complete application and associated filing fees.

5. Submittal of Additional Information.

a. During the course of the review process, the review authority may require the applicant to submit additional information or revised plans.

b. The Director shall notify the applicant in writing of any revisions or additional information required and the applicant shall submit the requested information to the Department within thirty (30) days after the date of the notice or within the period of time designated by the review authority.

c. Failure to submit the required information within the thirty (30) day period or within the period of time designated by the review authority may be cause for denial.

6. **Additional Environmental Information**. After an application has been accepted as complete, the Director may require the applicant to submit additional information needed for the environmental review of the project**'s** ~~**in**~~ compliance with the certified LCP and the public access and recreation policies of Chapter 3 of the Coastal Act, if applicable. ~~California Environmental Quality Act (CEQA), the City's CEQA guidelines, and Section 21.50.080 (Environmental review).~~

B. **Determination of Applicable Notice and Hearing Procedures.** The determination of whether a development is categorically excluded, non-appealable or appealable to the Coastal Commission for purposes of notice, hearing and appeals procedures shall be made by the Director at the time the coastal development application is submitted to the City. This determination shall be made with reference to the certified LCP, including any maps, categorical exclusions, land use designations and zoning ordinances which are adopted as part of the certified LCP. Where an applicant, interested person, or the City has a question as to the appropriate designation for the development, the following procedures shall establish whether a development is categorically excluded, non-appealable or appealable:

1. The Director shall make his or her determination as to what type of development is being proposed (i.e. categorically excluded, appealable, non-appealable) and shall inform the applicant of the notice and hearing requirements for that particular development;

2. If the determination by the Director is challenged by the applicant or an interested person, or if the Director wishes to have a Coastal Commission determination, the Director shall notify the Commission by telephone of the dispute/question and shall request an Executive Director opinion on the Director's determination. If the Director fails to notify the Executive Director within 5 days of the applicant's or interested person's challenge, then the applicant or interested person may notify the Commission by telephone of the dispute/question and request an Executive Director opinion on the determination;

3. The Executive Director shall, within two (2) working days of the Director's, applicant's or interested person's request (or upon completion of a site inspection where such inspection is warranted), transmit his or her determination as to whether the development is categorically excluded, non-appealable or appealable to the Director and, if applicable, to the interested person and/or the applicant;

4. Where, after the Executive Director's investigation, the Executive Director's determination is not in accordance with the Director's determination, the Coastal Commission shall hold a hearing for purposes of determining the appropriate designation for the area. The Coastal Commission shall schedule the hearing on the determination for the next Commission meeting (in the appropriate geographic region of the state) following the Director's or, if applicable, the interested person's or applicant's request.

~~B~~C. **Referral of Application.** At the discretion of the Director, or where otherwise required by this Implementation Plan or State or Federal law, an application may be referred to any public agency that may be affected by or have an interest in the proposed project for their review and comment.

21.50.060 – Project Evaluation and Staff Reports

A. **Director Evaluation.** The Director shall review all applications to determine whether they comply and are consistent with the provisions of this Implementation Plan, the General Plan, and other applicable provisions identified in Section 21.10.040 (Applicability of Implementation Plan).

B. **Staff Report.** The Department shall provide a written recommendation for discretionary applications to the applicable review authority recommending that the application be approved, conditionally approved, or denied.

C. **Staff Report to Include Findings.** Whenever this Implementation Plan requires a set of findings to be made before granting approval of an application by the applicable review authority, it shall be the responsibility of the Department to present all relevant facts to support the findings.

D. **Report Distribution.** Each staff report shall be furnished to the applicant at the same time as it is provided to the review authority before the review authority's action on the application.

21.50.070 – Environmental Review

A. **~~CEQA~~ LCP Review.** After acceptance of a complete application, the ~~project~~ development shall be reviewed in compliance with the ~~California Environmental Quality Act~~ applicable policies of the LCP. ~~(CEQA) to determine whether:~~

~~1. The project is not a project as defined by CEQA;~~
~~2. The project is exempt from the requirements of CEQA;~~
~~3. A negative declaration may be issued;~~
~~4. A mitigated negative declaration may be issued; or~~
~~5. An Environmental Impact Report (EIR) shall be required.~~

B. **Investigation.** Analysis of proposed development within or adjacent to ESHA, wetlands or other sensitive resources shall include an analysis of the individual and cumulative impacts of the development on coastal resources, define the least environmentally damaging alternative, and recommend modifications or mitigation measures to avoid or minimize impacts on coastal resources.

C. **Environmental Documents.**

1. **Preparation by Qualified Specialist**. All environmental documents, including surveys, assessments, reports and other technical studies, shall be prepared by a qualified resource specialist with technical expertise as appropriate for the environmental issues of concern.

2. **Review of Documents.** All environmental documents submitted as part of a development application shall be reviewed by a qualified City staff member, City-designated advisory committee, or consultant approved by, and under the supervision of, the City. Environmental documents prepared more than two (2) years prior to the date of submittal shall be reviewed to determine if changes to the project and/or changes to the surrounding area of the project warrant additional environmental review in the form of an addendum, a supplemental environmental document, or a new environmental document.

3. **Report.** A qualified City staff member, advisory committee, or contracted employee shall prepare a written report with recommendations to the appropriate decision-making official or body.

~~3~~4. **Recommendations.** Written findings of fact, analysis and conclusions shall be included in any recommendation to approve, conditionally approve, or disapprove proposed development within or adjacent to ESHA, wetlands or other ~~sensitive~~ coastal resources. Any recommendations of approval shall include an identification of the preferred project alternative and required modifications or mitigation measures necessary to ensure conformance with the Local Coastal Program.

~~D.~~ ~~**Compliance with CEQA.** These determinations and, where required, the preparation of appropriate environmental documents shall be in compliance with CEQA and applicable Council policies.~~

21.50.080- Posting Notice

Posting of a Sign and Notice. At the time the applicant submits a coastal development application for filing, the applicant shall post, at a conspicuous place, easily readable by the public and placed as close as possible to the site of the proposed development, notice that an application for a coastal development permit has been submitted to the City. Such notice shall contain a general description of the nature of the proposed development and shall adhere to the following requirements:

a. One or more signs shall be posted as determined by the Director to ensure adequate notice.

b. The size and location of the sign(s) shall be as determined by the Director to ensure that it will be easily readable by the public.

c. The project applicant shall be responsible for maintaining the sign(s) in a satisfactory condition.

d. The project applicant shall remove all sign(s) at the end of the applicable appeal period.

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification
Double Underlined Bold Text = Language modifications made at 9/8/16 Commission meeting
~~Bold DoubleStrike Out Text~~ = Language deleted as part of modifications made at 9/8/16 Commission meeting

Chapter 21.52 – Coastal Development Review Procedures

Sections:

21.52.010	Purpose
21.52.015	Coastal Development Permits
21.52.025	Emergency Coastal Development Permits
21.52.035	Projects Exempt from Coastal Permit Requirements
21.52.045	Categorical Exclusions
21.52.055	Waiver for De Minimis Development
21.52.075	Coastal Commission Review of Recorded Access Documents

21.52.010 – Purpose

This chapter provides procedures to ensure that all public and private development in the Coastal Zone is consistent with the California Coastal Act of 1976 (Division 20 of the Public Resources Code) as amended, in accordance with the City's Local Coastal Land Use Plan and the City's Local Coastal Program. The provisions of this chapter shall apply in the Coastal Zone, as defined by the Coastal Act. Furthermore, the provisions of this chapter, and as applicable the Coastal Act and regulations, shall be utilized to determine whether or not a proposal in the City's permitting jurisdiction constitutes development and whether or not that development requires a coastal development permit or is exempt. No provision contained in any other chapter of the Implementation Plan, nor in any other City policy or regulations shall be used in such determinations.

21.52.015 – Coastal Development Permits

A. **Coastal Development Permit Required.** Any development in the Coastal Zone shall require a coastal development permit issued by the City pursuant to Chapter 21.50, or the Coastal Commission, unless exempt or excluded from coastal development permitting requirements. Development undertaken pursuant to a coastal development permit shall conform to the plans, specification, terms and conditions of the permit. The requirements for obtaining a coastal development permit shall be in addition to requirements to obtain any other permits or approvals required by other articles of this Ordinance, other city ordinances or codes or from any state, regional or local agency. If conflicts between this chapter and other city ordinances or codes arise, this chapter shall govern.

B. **Permit Jurisdiction**. After the effective certification of the LCP and the Coastal Commission's delegation of authority to the City, the City shall issue all coastal development permits for development not located within the Coastal Commission's ~~original~~ permit jurisdiction.

1. **Coastal Development Permit Issued by the Coastal Commission**. Developments on tidelands, submerged lands, and public trust lands as described in Public Resources Code Section 30519(b) and in deferred certification areas designated by the certified Local Coastal Program require a permit or

exemption issued by the Coastal Commission in accordance with the procedure as specified by the Coastal Act. Areas of Coastal Commission permit jurisdiction and deferred certification areas are generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map.

a. **Approval in Concept**. All development in areas where the Coastal Commission retains coastal development permit authority shall require conceptual approval from the City prior to application to the Coastal Commission. An approval in concept indicates that the proposed development conforms in concept to all City land use and development regulations, including any applicable discretionary actions, and therefore entitles the applicant to apply to the Coastal Commission for a coastal development permit.

~~b. **Public Trust Lands Delegated to the City**. Pursuant to Coastal Act Section 30613, permit authority on tidelands, submerged lands, and public trust lands that are determined by the Coastal Commission to be filled and developed and located within an area committed to urban uses shall be delegated to the City. Public trust lands delegated to the City are depicted on the Permit and Appeal Jurisdiction Map.~~

2. **Coastal Development Permit Issued by the City**. All development requires a coastal development permit unless specifically exempted or excluded. After certification of the LCP, the City shall issue all coastal development permits and exemptions or exclusions for development not located within the Coastal Commission's ~~original~~ permit jurisdiction.

C. **Application Filing, Processing, and Review.** An application for a coastal development permit shall be filed and processed in compliance with Chapter 21.50 (Permit Application Filing and Processing). The application shall include all of the information and materials specified by the Director, together with the required fee in compliance with the City's fee schedule adopted by resolution. It is the responsibility of the applicant to provide evidence in support of the findings required by subsection (F) of this section (Findings and Decision).

D. **Public Notice and Hearing Provisions.**

1. **Public Hearing Required.** A public hearing shall be required before the decision on any coastal development permit application for development that is not exempted or excluded.

2. **Notice.** Notice of the hearing shall be provided and the hearing shall be conducted in compliance with Chapter 21.62 (Public Hearings).

E. **Review Authority.** The review authority identified in Table 21.50-1 (Section 21.50.020) is designated to approve, conditionally approve, or deny applications for coastal development permits and the modification or revocation thereof, in compliance with the procedures provided in this section. The review authority may not exercise its power to grant or deny applications for coastal development permits in a manner which will take or damage private property for public use, without the payment of just compensation therefor.

F. **Findings and Decision**. The review authority may approve or conditionally approve a coastal development permit application, only after first finding that the proposed development ~~is~~:

~~1. The project is in accord with the objectives of this Implementation Plan;~~

~~2~~1. ~~The project c~~Conforms to all applicable sections of the certified Local Coastal Program;

~~3~~2. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone ~~The project will not negatively impact public access to coastal resources~~.

~~3. If the application of any requirements of the LCP would likely constitute unconstitutional taking of private property, then the non-compliant use or development shall be allowed on the property, provided it is limited to the minimum amount necessary to avoid an unconstitutional taking and the use or development is consistent with all other applicable LCP requirements.~~

~~4. The project will not negatively impact public coastal views.~~

~~5. The project will not negatively impact sensitive coastal resources and environmentally sensitive areas.~~

G. **Conditions of Approval.** The review authority may impose such reasonable terms and conditions in connection with the granting of a coastal development permit as deemed necessary ~~to secure the purposes of this Implementation Plan and the~~ ensure that the development will be in accordance with the certified Local Coastal Program and, if applicable, the public access and public recreation policies of Chapter 3 of the Coastal Act, and may require guarantees and evidence that such conditions are being or will be complied with.

H. **Notice of Final Action.** Within ~~seven (7)~~ five (5) days of the date of the City's final local action on an exemption or coastal development permit application and meeting the requirements of Title 14 California Code of Regulations section 13570, a notice of its final action shall be sent by first class mail, to the applicant, the Coastal Commission, and any persons who specifically request such notice by submitting a self-addressed, stamped envelope. Such notice shall be accompanied by a copy of the exemption, denial or conditions of approval and written findings and the procedures for appeal of the action to the Coastal Commission.

~~I. **Minor Changes by Director.**~~

~~1. Minor changes to an approved coastal development permit that do not involve an increase in structure area or height, an increase in the number of dwelling units, or a change of use may be approved by the Director in compliance with Section 21.54.070 (Changes to an approved project).~~

~~2. Proposed changes that are not deemed minor shall be subject to review and approval by the original review authority.~~

~~J~~I. **Post-Decision Procedures.** The procedures and requirements in Chapter 21.54 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Part 6 of this Implementation Plan (Implementation Plan Administration) shall apply following the decision on a coastal development permit application or exemption.

21.52.025 – Emergency Coastal Development Permits

In the event of a verified emergency, temporary permits to proceed with remedial measures may be authorized by the Director until such time as a full coastal development permit shall be filed.

A. **Application.** An emergency coastal development permit application shall be made to the Director in writing, or if, in the opinion of the Director, time does not allow written application, the application may be made orally in person or by telephone or electronic mail ~~within three (3) days of the emergency~~ and shall include the following:

1. A description of the nature or cause of the emergency and location of the emergency;

2. The location of the protective or preventative work ~~either needed or accomplished~~ required to ~~respond to~~ deal with the emergency;

3. An explanation of the circumstances ~~of~~ during the emergency that justify the action to be taken, including the probable consequences of failing to take action.

B. **Limitations.** The Director shall not grant an emergency coastal development permit for any development that falls within an area in which the Coastal Commission retains direct permit review authority ~~**nor within any area where a project would be appealable to the Coastal Commission**~~. In such areas and for such developments, a request for an emergency authorization must be made to the Coastal Commission. In addition, a waiver for a coastal development emergency permit may be obtained from the Coastal Commission Executive Director for development that is required to protect life or public property in accordance with Section 30611 of the Coastal Act.

C. **Application Review.** The Director is the review authority for emergency coastal development permit applications. The Director's determination to approve or deny the application shall be final. If the Director approves the application, the Director shall submit a report to the California Coastal Commission and the Planning Commission detailing the review and approval process, including the nature of the emergency and the remedial, protective, or preventive work required to deal with the emergency. Before making a determination, the Director shall verify the facts, including the existence and the nature of the emergency, insofar as time allows. The Director may grant an emergency permit upon reasonable terms and conditions, including an expiration date and the necessity for a regular permit application later, if the local official finds that:

1. An emergency exists that requires action more quickly than permitted by the procedures for regular permits administered pursuant to the provisions of Chapter 21.50 – Permit Application Filing and Processing and the work can and will be completed within 30 days unless otherwise specified by the terms of the permit; and

2. Public comment on the proposed emergency action has been reviewed, if time allows; and

3. The work proposed would be consistent with the requirements of the certified Land Use Plan portion of the local government's local coastal program; and

4. The work proposed under the emergency permit shall be the minimum amount necessary to address the emergency.

D. **Expiration.** An emergency coastal development permit is valid for sixty (60) days from the date of issuance by the Director. The Director may extend an emergency permit for an additional sixty (60) days for good cause including but not limited to that a coastal development permit application is on file.

21.52.035 – Projects Exempt from Coastal Development Permit Requirements

The following projects, when they are not located within the Coastal Commission's jurisdiction, are exempt from the requirement to obtain a coastal development permit from the City:

A. **Pre-Certification.** Any development authorized by a coastal development permit approved by the Coastal Commission before effective date of certification of the Local Coastal Program and has not expired.

B. ~~**Deferred Certification**~~**Coastal Commission Permit Jurisdiction Areas**. For developments in deferred certification areas and the Coastal Commission's original jurisdiction, the Coastal Commission retains permit jurisdiction. Applicants wishing to perform development in these areas must apply directly to the Coastal Commission for authorization before commencing development.

C. **Coastal Act Exemptions.** Developments not located within the Coastal Commission's permit jurisdiction determined to be ~~excluded~~ exempt from the coastal development permit requirements pursuant to California Public Resources Code Section 30610. The following types of projects shall be so ~~excluded~~ exempted unless they involve a risk of adverse environmental effects:

1. **Existing Single-Unit ~~Dwellings~~ Residential Buildings.** Improvements to existing single-unit ~~dwellings~~ residential buildings, including all fixtures and other exterior structures directly attached to the ~~dwelling~~ residence; ancillary structures normally associated with single-unit ~~dwellings~~ residences, such as garages, swimming pools, fences, storage sheds, but not including guest houses or self-contained residential units; and landscaping on the lot.~~, with the exception of the~~ The following classes of development require a coastal development permit, however, because they ~~that~~ involve a risk of adverse environmental effects:

   a. Improvements to ~~any structure~~ a single-unit structure where either the structure or the improvement is located on a beach, in a wetland or stream, seaward of the mean high tide line, within an environmentally sensitive habitat area, or in an area designated as highly scenic in the Certified Coastal Land Use Plan, or within fifty (50) feet of the edge of a coastal bluff.

b. Any significant alteration of land forms including removal or placement of vegetation on a beach, wetland, or sand dune, or within 50 feet of the edge of a coastal bluff or stream, or in an environmentally sensitive habitat area.

c. Expansion or construction of a water well or septic system.

d. Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when such improvements would constitute or result in any of the following:

(1) An increase of 10 percent or more ~~within any 12-month period~~ of the floor area of existing structure(s) on the building site or an additional improvement of 10 percent or less ~~within any 12-month period~~ where an improvement to the structure has previously been undertaken pursuant to California Public Resources Code Section 30610(a) and/or this subsection.

(2) The construction of an additional story or loft or increase in building height of more than 10 percent ~~within any 12-month period~~.

(3) The construction, placement or establishment of any significant ~~detached~~ non-attached structure such as a garage, fence, shoreline protective works or docks.

e. In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use such as, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system.

f. Any improvement to a single-unit residence where the coastal development permit issued for the original structure indicates that any future ~~additions~~ improvements would require a coastal development permit.

In any particular case, even though an improvement falls into one of the classes set forth in subsection (C)(1) above, the Director may, upon finding that the impact of the development on coastal resources or coastal access to be insignificant, waive the requirement of a permit pursuant to Section 21.52.055 (Waiver for De Minimis Development).

2. **Other Existing Structures.** Improvements to existing structures, other than single-unit ~~dwellings and~~ residences or public works facilities, including all fixtures and other structures directly attached to the structure and landscaping., ~~with the exception of the~~ The following classes of development, ~~that~~ however, require a coastal development permit because they involve a risk of adverse environmental effect, adversely affect public access, or involve a change in use contrary to the

Coastal Act:

a. Improvements to any structure where either the structure or the improvement is located on a beach, in a wetland or stream, or seaward of the mean high tide line, in an area designated as highly scenic in the certified Coastal Land Use Plan, or within 50 feet of the edge of a coastal bluff.

b. Any significant alteration of land forms including removal or placement of vegetation, on a beach or sand dune; in a wetland~~, or sand dune,~~ a stream; or within 100 feet of the edge of a coastal bluff or stream, in~~ an area designated as~~ a highly scenic~~ in the Certified Coastal Land Use Plan,~~ area; or in an environmentally sensitive habitat area.

c. Expansion or construction of a water well or septic system.

d. Improvements on property that is located between the sea and first public road paralleling the sea, or within 300 feet of the inland extent of any beach or of the mean high tide of the sea where there is no beach, whichever is the greater distance, or in significant scenic resources areas as designated by the Coastal Commission, when such improvements would constitute or result in any of the following:

   (1) An increase of 10 percent or more~~ within any 12-month period~~ of the internal floor area of existing structure(s) on the building site or an additional improvement of 10 percent or less~~ within any 12-month period~~ where an improvement to the structure has previously been undertaken pursuant to California Public Resources Code Section 30610(a) and/or this subsection.

   (2) The construction of an additional story or loft or increase in ~~building~~ existing structure's height~~ of~~ by more than 10 percent ~~within any 12-month period~~.

   (3) The construction, placement or establishment of any significant ~~detached~~ non-attached structure such as a garage, fence, shoreline protective works or docks.

e. In areas that the Coastal Commission has declared by resolution after a public hearing to have a critically short water supply that must be maintained for the protection of coastal resources or public recreational use, the construction of any specified major water using development not essential to residential use such as, but not limited to, swimming pools or the construction or extension of any landscaping irrigation system.

f. Any improvement where the coastal development permit issued for the original structure indicates that any future~~ additions~~ improvements would require a coastal development permit.

g. Any improvement to a structure that changes the intensity of use of the structure.

h. Any improvement made pursuant to a conversion of an existing structure from a multiple unit rental use or visitor-serving commercial use to a use involving a fee ownership or long-term leasehold including but not limited to a condominium conversion, stock cooperative conversion or motel/hotel timesharing conversion.

In any particular case, even though an improvement falls into one of the classes set forth in subsection (C)(2) above, the Director may, upon finding that the impact of the development on coastal resources or coastal access to be insignificant, waive the requirement of a permit pursuant to Section 21.52.055 (Waiver for De Minimis Development).

3. **Maintenance Dredging.** Maintenance dredging of existing navigation channels or moving dredged materials from those channels to a disposal area outside of the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.

4. **Repair and Maintenance.** Repair or maintenance activities, with the exception of the following activities that involve a risk of substantial adverse environmental ~~effects~~ impacts:

a. Any method of repair or maintenance of a seawall revetment, bluff retaining wall, breakwater, groin, culvert, outfall, or similar shoreline work that involves:

(1) Repair or maintenance involving substantial alteration of the foundation of the protective work including pilings and other surface or subsurface structures; or

(2) The placement, whether temporary or permanent, of rip rap, or artificial berms of sand, or any other form of solid material, on a beach or in coastal waters, streams, wetlands, estuaries, or on shoreline protective works; or

(3) The replacement of 20 percent or more ~~**within any 12-month period**~~ of the materials of an existing structure with materials of a different kind; or

(4) The presence, whether temporary or permanent, of mechanized construction equipment or construction materials on any sand area or bluff or within 20 feet of coastal waters or streams.

b. Any method of routine maintenance dredging that involves:

(1) The dredging of 100,000 cubic yards or more within a 12 month period; or

(2) The placement of dredged spoils of any quantity within an environmentally sensitive habitat area, or any sand area, or within 50 feet of the edge of a coastal bluff or environmentally sensitive

habitat area, or within 20 feet of coastal waters or streams; or

(3) The removal, sale, or disposal of dredged spoils of any quantity that would be suitable for beach nourishment in an area the Coastal Commission has declared by resolution to have a critically short sand supply that must be maintained for protection of structures, coastal access or public recreational use.

c. Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area; or within 20 feet of any coastal waters and streams that include:

(1) The placement or removal, whether temporary or permanent, of rip rap, rocks, sand or other beach materials or any other forms of solid materials;

(2) The presence, whether temporary or permanent, of mechanized equipment or construction materials, except that the use of such equipment solely for routine beach cleaning and park maintenance shall not require a coastal development permit;

All repair and maintenance activities governed by subsection (D)(4) shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of subsection (D)(4) shall not be applicable to those activities specifically in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean.

(3) Unless destroyed by disaster, the replacement of 50 percent or more of a single-unit ~~dwelling~~ residence, seawall, revetment, bluff retaining wall, breakwater, groin or any other structure is not repair and maintenance under California Public Resources Code Section 30610(d) but instead constitutes a replacement structure requiring a coastal development permit.

In any particular case, even though an improvement falls into one of the classes set forth in subsection (C)(4) above, the Director may, upon finding that the impact of the development on coastal resources or coastal access to be insignificant, waive the requirement of a permit pursuant to Section 21.52.055(Waiver for De Minimis Development).

5. **Utility Connections**. The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the Coastal Act or the certified LCP; provided, however, that the City or the Coastal Commission may, where necessary, require reasonable conditions to mitigate any adverse impacts on

coastal resources, including scenic resources.

6. **Replacement of Structures Destroyed By Disaster.** The replacement of any structure, other than a public works facility, destroyed by a disaster, provided the following requirements are met:

   a. The use of the replacement structure is the same as the use of the destroyed structure;

   b. The replacement structure does not exceed either floor area, height, or bulk of the destroyed structure by more than 10 percent; and

   c. The replacement structure is sited in the same location on the affected property as the destroyed structure.

7. **Time-Share Conversions.** Any activity anywhere in the Coastal Zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11003.5 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no coastal development permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subsection. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subsection.

D. **Special and Temporary Events.** ~~T~~Special and other temporary events that meet all of the following criteria may also be exempt from coastal development permit requirements:

1. The event will not occur on and between Memorial Day weekend and Labor Day or if proposed in this period will be of less than one day in duration including set-up and take-down or will not significantly impact public use of roadways or parking areas or otherwise impact public use or access to coastal waters; and

2. The event will not occupy any portion of a public sandy beach or the location is remote with minimal demand for public use, and

3. There is no potential for adverse effect of sensitive coastal resources; and

4. A fee will not be charged for general public admission and/or seating where no fee is currently charged for use or event of the same area (not including booth or entry fees); or, if a fee is charged, it is for preferred seating only and more than seventy-five (75) percent of the provided seating capacity is available free of charge for general public use; and

5. Does not involve permanent structures or structures that involve grading or landform alteration for installation; or~~.~~

6. The event has previously received a coastal development permit and will be held in the same location, at a similar season, and for the same duration, with operating and environmental conditions substantially the same as those associated with the previously approved event.

The Director may determine that a temporary event shall be subject to coastal development permit review, even if the criteria in 1-6 above is met, if the Director determines that unique or changing circumstances exist relative to a particular temporary event that have the potential for significant adverse impacts on coastal resources.

~~E. **De Minimis Development.** Development determined to be de minimis by the Director pursuant to Section 21.52.055 (Waiver for De Minimis Development).~~

~~F. **Ongoing Routine Repair and Maintenance.** Pursuant to California Code of Regulations Section 13252 (c), the following on-going routine repair and maintenance activities conducted by the City:~~

~~1. **Beaches.** Periodic maintenance of public beaches landward of the mean high tide line and outside of dune habitat areas, including the cleaning and redistributing of sand using mechanized equipment.~~

~~2. **Storm Berms.** The use of temporary sand dunes in shoreline areas to protect buildings and infrastructure from wave uprush during storm events in a manner that minimizes significant impacts to coastal access and resources.~~

~~3. **Piers.**~~

~~a. The repair and maintenance of existing public recreational piers, including, but not limited to, resurfacing of pedestrian decks and the removal and replacement of existing pilings.~~

~~b. The repair and maintenance of existing private piers involving construction totaling no more than twenty (20) percent of the total replacement value of the pier.~~

~~4. **Storm Drains.** Periodic inspection, cleaning, maintenance, and replacement of existing storm drain lines required under National Pollutant Discharge Elimination System (NPDES).~~

21.52.045 – Categorical Exclusions

~~A. **Applicability.** Projects that will not result in a potential for any significant adverse effect, either individually or cumulatively, on coastal resources or on public access to, or along, the coast are excluded from the requirements of coastal development permit processing as authorized by and in accordance with the procedures certified by the California Coastal Commission. Pursuant to Newport Beach Categorical Exclusion Order E-77-5 approved by the California Coastal Commission on June 14, 1977, the following specific categories will not require a coastal development permit. A current record of all permits issued for~~

categorically excluded developments shall be available for public and Coastal Commission review and shall contain the name of applicant, location (street address and assessor's parcel number of property on which development is proposed), and brief description of the development, date of application of other local permit(s), all terms and conditions of development imposed by the City in granting its approval, the site plan and vicinity map of the development.

Pursuant to California Code of Regulations Section 13243, any change to the categorical order requires action by the California Coastal Commission on the categorical exclusion. The categorical exclusion order cannot be modified through changes to the LCP alone. A request for amendment to a categorical exclusion order shall be processed pursuant to California Code of Regulations Sections 13241 – 13425.

B. **Categorical Exclusion Order E-77-5.** The categorical exclusion is for the demolition and/or construction of single-unit and two-unit dwelling units and their appurtenant facilities in the R-1, R-BI, and R-2 Coastal Zoning Districts within the Coastal Zone.

1. **Geographic Area.** The exclusion shall apply only to the following areas: Balboa Island, Balboa Peninsula, Cameo Highlands, Cameo Shores, Corona del Mar, Corona Highlands, Irvine Terrace, Lido Isle, Shorecliffs, Upper Newport Bay, and West Newport and depicted in the referenced map exhibits adopted in Part 8 of this Implementation Plan (Maps).

2. **Exceptions.** Categorical Exclusion Order E-77-5 does not include:

   a. The first row of lots adjacent to the beach, bay wetlands
   b. Major undeveloped residential sites
   c. Planned Community Districts
   d. Gated communities

3. **Terms and Conditions.** The terms and conditions applied by the Coastal Commission to Categorical Exclusion Order E-77-5 are as follows:

   a. **Lot Coverage.** Structures subject to this exclusion shall be designed so that the gross structural area, including storage, parking, and stairways, does not exceed 1.5 times the buildable area on non-conforming lots (4,000 square feet or less) and in areas where a majority of the lots are non-conforming.

   b. **Parking.** A minimum of two parking spaces shall be provided for each residential unit, regardless of size. To the maximum extent practicable, parking shall be provided on the alley side of the lot and in no case shall required parking be permitted in the required front setback.

   c. **Density.** Duplexes shall only be permitted on lots 2,400 square feet or greater.

   d. **Applicable Zoning.** Development pursuant to this exclusion shall conform, unless otherwise limited by this order, to the zoning regulations in

~~effect on the date this order is adopted by the Coastal Commission as represented by City of Newport Beach Ordinance No. 1657, a copy of which is attached to the official map of this exclusion and also provided in Appendix C of this Implementation Plan.~~

~~e. **Implementation.** The City of Newport Beach shall, at an appropriate stage in the local approval process for development subject to this exclusion, distribute to the applicant for such local approval a form provided by the Executive Director of the Coastal Commission. After final local governmental approval but prior to construction under this exclusion, the City shall send the completed form to the Coastal Commission. The completed form shall include a certification by the applicant that the approved development conforms to the terms and conditions of this order.~~

~~The City of Newport Beach may, at its option, also make that certification on the completed form. No construction pursuant to this exclusion may commence until 5 working days have elapsed following receipt of the completed form by the Coastal Commission.~~

~~f. **Public Trust.** In the event that any competent agency or court determines that any lands excluded by this order are subject to the public trust, this exclusion shall immediately become void as to those lands and any development undertaken on those lands shall be subject to the full permit requirements of the Coastal Act of 1976.~~

~~C~~A. **Post-Certification Categorical Exclusions.** ~~Any~~ The Coastal Commission may adopt a categorical exclusion ~~adopted by the Coastal Commission~~ after certification of this Implementation Plan pursuant to Sections 30610(e) or 30610.5 of the Public Resources Code and Subchapters 4 or 5 of Chapter 6 of Division 5.5 of Title 14 of the California Code of Regulations (Sections 13215-235 and 240-249). Records of such categorical exclusions shall be kept on file with the Department.

~~D~~B. **Notice of Exclusion**. A notice of exclusion shall be provided to the Coastal Commission and to any person who has requested such notice within five (5) working days of issuance. The notice of exclusion may be issued at the time of project application but shall not become effective until all other approvals and permits required for the project are obtained. A copy of all terms and conditions imposed by the City shall be provided to the Coastal Commission, per Section 13315 of the California Code of Regulations.

21.52.055 – Waiver for De Minimis Development

A. **Authority.** The Director may issue a written waiver from the coastal development permit requirements of this Chapter for any development that is de minimis.

B. **Determination of Applicability.** A proposed development is de minimis if the Director determines, based on a review of an application for a coastal development permit, that the development satisfies all of the following requirements:

1. The proposed development is within the coastal zone and not located within an appeal area and not ~~or~~ within an area where the Coastal Commission retains permit jurisdiction and no local public hearing is required.

2. The proposed development involves no potential for any adverse effect, either individually or cumulatively, on coastal resources and that it will be ~~is~~ consistent with the certified Local Coastal Program. The determination shall be made in writing and based upon factural evidence.

C. **Applicability**. The Director may consider the following types of development for possible permit waivers:

1. Projects that would have been placed on the consent calendar of the City Council agenda without special conditions;

2. Projects fully consistent with the certified LCP and for which all applicable policies of the LCP are objective in nature, such that staff does not have to exercise its judgment as to satisfaction of subjective criteria; and

3. Projects located in areas where similar projects have been approved as a routine matter without conditions or opposition.

The following projects will not be considered for possible waivers:

1. Projects that involve questions as to conformity with the certified LCP, or that may result in potential impacts on coastal resources and public access;

2. Projects with known opposition or probable public controversy; and

3. Projects that involve divisions of land including condominiums.

D. **Public Notice.** If, upon review of the coastal development permit application, the Director determines that the development is de minimis, the applicant shall post public notice of the de minimis waiver on the property for at least seven calendar days prior to the final decision granting the waiver. Notice of intent to issue a de minimis waiver shall also be made to the Coastal Commission and to persons known to be interested in the proposed development within 10 calendar days of accepting an application for a de minimis waiver or at least seven calendar days prior to the decision on the application. The Director shall provide notice, by first class mail, of pending waiver of permit requirements. This notice shall be provided to all persons who have requested to be on the mailing list for that development project or site or for coastal decisions within the local jurisdiction, to all property owners and residents within 300 feet of the perimeters of the parcel on which the development is proposed, and to the Coastal Commission.

E. **Content of Public Notice.** The notice shall contain the following information:

1. A general description of the proposed project and location;

2. A statement that the development is within the coastal zone;

3. The date of filing of the application and the name of the applicant;

4. The number assigned to the application;

5. The date at which the waiver may become effective;

6. The general procedure concerning the submission of public comments either in writing or rally prior to the decision; and

7. A statement that a public comment period of sufficient time to allow for the submission of comments by mail will be held prior to the decision.

The Director shall report to the City Council at its next available public meeting those projects for which waivers are proposed, with sufficient description to give notice of the proposed development to the City Council. A list of waivers issued by the Director shall be available for public inspection at the public counter of the Community Development Department and at the City Council meeting during which any waivers are reported. A waiver shall not take effect until after the Director makes his/her report to the City Council. If one-third of the City Council (two members) so request, such issuance shall not be effective and, instead, the application for a coastal development permit shall be processed in accordance with the coastal development permit provisions of this chapter.

21.52.075 – Coastal Commission Review of Recorded Access Documents

A. **Standards and Procedures.** Upon final approval of a coastal development permit or other authorization for development, and where issuance of the permit or authorization is conditioned upon the applicant recording a legal document which restricts the use of real property or which offers to dedicate or grant an interest or easement in land for public use, a copy of the permit conditions, findings of approval, and drafts of any legal documents proposed to implement the conditions shall be forwarded to the Coastal Commission for review and approval prior to the issuance of the permit consistent with the following procedures and California Code of Regulations Section 13574:

1. The Executive Director of the Coastal Commission shall review and approve all legal documents specified in the conditions of approval of a coastal development permit for public access and conservation/open space easements.

   a. Upon completion of permit review, and prior to the issuance of the permit, the City shall forward a copy of the permit conditions, findings of approval, and copies of the legal documents to the Executive Director of the Coastal Commission for review and approval of the legal adequacy and consistency with the requirements of potential accepting agencies;

   b. The Executive Director of the Coastal Commission shall have fifteen (15) working days from receipt of the documents in which to complete the review and notify the City of recommended revisions if any;

c. The City may issue the permit upon expiration of the fifteen (15) working day period if notification of inadequacy has not been received by the City within that time period;

d. If the Executive Director has recommended revisions to the City, the permit shall not be issued until the deficiencies have been resolved to the satisfaction of the Executive Director; or

2. At the time of coastal development permit approval, if the City requests, the Coastal Commission shall delegate to the City the authority to process the recordation of the necessary legal documents pertaining to the public access and open space conditions. Upon completion of the recordation of the documents the City shall forward a copy of the permit conditions and findings of approval and copies of the legal documents pertaining to the public access and open space conditions to the Executive Director of the Coastal Commission.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

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Chapter 21.54 – Permit Implementation, Time Limits, and Extensions

Sections:

21.54.010 Purpose
21.54.020 Use of Property
21.54.030 Effective Date of Permits; Notice of Final Action
21.54.040 Applications Deemed Approved
21.54.050 Performance Guarantees
21.54.060 Time Limits and Extensions
21.54.070 Changes to an Approved ~~Project~~ Coastal Development Permit
21.54.080 Resubmittals
21.54.090 Covenants

21.54.010 – Purpose

This chapter provides requirements for the implementation or "exercising" of permits listed in Table 5-1 and other approvals that are granted or issued in compliance with this Implementation Plan, including time limits and procedures for granting extensions of time.

21.54.020 Use of Property

Required construction permits (e.g., building, grading, and other construction permits) may be issued following the effective date of the permit in compliance with Section 21.54.030.

A. **Compliance Required**. Grading shall not be commenced and no structure shall be altered, enlarged, erected, moved, or rebuilt subject to the provisions of this part, except in compliance with the approved permit and associated conditions.

B. **Director's Determination.** Conformity shall be determined by the Director or, in the case of disagreement with the applicant, by the applicable review authority.

21.54.030 – Effective Date of Permits; Notice of Final Action

A. **Effective Date.** The approval of any permit for a project that is appealable to the Coastal Commission shall become effective upon the expiration of the Coastal Commission's 10-working-day appeal period ~~that begins the day after the receipt by the office of~~ as established by the ~~California~~ Coastal Commission ~~of the City's Notice of Final Local Action,~~ and where no appeal of the review authority's action has been filed by 2 Coastal Commissioners, the applicant, or any aggrieved person in compliance with the Coastal Act.

B. **Notice of Final Action.** Final City action on permits for sites located within the City's Coastal Zone shall be documented by the Notice of Final Local Action which the City

sends to the Coastal Commission within 7 days of the City's final action on a CDP application and compliance with Title 14 California Code of Regulations section 13570.

21.54.040 Applications Deemed Approved

A permit application that is deemed approved by operation of law shall be subject to all applicable provisions of this Implementation Plan, which shall be satisfied by the applicant before a building or grading permit is issued or a use not requiring a building permit is established.

21.54.050 Performance Guarantees

A. **Deposit of Security.**

1. If the review authority finds that the issuance of a permit or other approval is reasonably likely to have a direct adverse impact on the health, safety, or welfare of the public if the condition(s) is not performed, the review authority may impose, as a condition of approval, a requirement that the applicant deposit security in an amount sufficient to ensure the faithful performance of the condition(s).

2. The security shall be in the form of cash, a certified or cashier's check, or a performance bond. If the applicant elects to fulfill the condition by providing a performance bond, the performance bond shall be issued by a surety currently authorized by the Insurance Commissioner to transact business in the State of California. The surety shall be of a financial size and have a financial rating acceptable to the City's Risk Manager. The form of the performance bond shall be subject to approval by the City Attorney.

3. The security shall remain in effect until all of the secured conditions have been performed to the satisfaction of the Director.

4. Security required in compliance with this section shall be payable to the City.

B. **Release of Security.** Upon satisfactory compliance with all applicable provisions of this section, the security deposit shall be released.

C. **Failure to Comply.**

1. Upon failure to perform any secured condition in a timely manner, the City may execute the condition, or cause it to be done, and may collect from the applicant, and surety in case of a bond, all costs incurred, including administrative, engineering, legal, and inspection costs.

2. The unused portion of the security, if any, shall be refunded to the applicant after deduction of the costs recoverable by the City.

D. **Appeal.** The Director's determinations under this section may be appealed to the Council by the applicant by filing an appeal with the City Clerk within fourteen (14) days after the decision in compliance with Chapter 21.64 (Appeals and Calls for Review).

21.54.060 – Time Limits and Extensions

A. **Time Limits**.

1. Unless a condition of approval or other provision of this Implementation Plan establishes a different time limit, any permit or approval not exercised within twenty-four (24) months from the actual date of review authority approval shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section.

2. The permit shall not be deemed "exercised" until at least one of the following has first occurred:

   a. A grading permit has been issued and grading has been substantially completed;

   b. A building permit has been issued and construction has commenced, and has continued to maintain a valid building permit by making satisfactory progress as determined by the Building Official;

   c. A certificate of occupancy has been issued;

   d. The use is established~~; or~~

   ~~e. A time extension has been granted in compliance with subsection (B) of this section~~.

3. In cases where a coastal development permit is required, the twenty-four (24) month time limit shall not begin until the effective date of approval of the coastal development permit.

4. If a project is to be developed in preapproved phases, each subsequent phase shall be exercised within twenty-four (24) months from the date that the previous phase was exercised, unless otherwise specified in the permit, or the permit shall expire and become void, except where an extension of time is approved in compliance with subsection (B) of this section.

5. If the project also involves the approval of a tentative map, the phasing shall be consistent with the tentative map and the permit shall be exercised before the expiration of the tentative map, or the permit shall expire and become void and of no further effect.

6. Once exercised, any use that has been abandoned for at least one hundred eighty (180) days or changed shall be deemed void.

B. **Extensions of Time**. Upon written request by the applicant, the Director, or the Commission under a referral or appeal, may extend the time for an approved permit or approval to be exercised.

1. **Filing and Review of Request.** The applicant shall file a written request for an extension of time with the Department no less than thirty (30) days or more than ninety (90) days before the expiration date of the permit, together with the filing fee required by the City's fee schedule adopted by resolution.

2. **Action on Extension Request.** A permit or approval may be extended for no more than three additional twelve (12) month periods beyond the expiration of the original approval; provided, the Director, or the Commission under a referral or appeal, first finds that there have been no changes in the conditions or circumstances of the site or project so that there would have been grounds for denial of the original project.

C. **Effect of Expiration.** After the expiration of a permit or approval in compliance with subsection (A) of this section (Time Limits), no further work shall be done on the site and no further use of the site shall occur until a new permit or approval and any required building permit or other City permits or approvals are first obtained.

21.54.070 – Changes to an Approved ~~Project~~ Coastal Development Permit

Development or a new use authorized through a coastal development permit ~~granted~~ issued by the City in compliance with this Implementation Plan shall be established only as approved by the review authority, and in compliance with any conditions of approval, except where a change to the project is approved in compliance with this section.

A. **Application.** An applicant shall request a proposed change in writing, and shall also furnish appropriate supporting information and materials explaining the reasons for the request.

B. **Minor Changes Approved by the Director Without a Public Hearing.**

1. The Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, where the Director first finds that the changes:

   a. Are consistent with all applicable provisions of this Implementation Plan;

   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;

   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; ~~and~~

   d. Do not result in an expansion or change in operational characteristics of the use~~.~~; and

e. Do not alter the facts in support of the findings required by Section 21.52.015 (F) and any other application section of this Implementation Plan.

2. The Director may choose to refer any requested change to the original review authority for review and final action.

C. **Changes to Coastal Development Permits Approved by the City.**

1. **Changes Approved by Original Review Authority.** A proposed change that does not comply with the criteria identified in subsection (B) of this section (Minor Changes Approved by the Director Without a Public Hearing) may only be approved by the original review authority for the project through a new permit application filed and processed in compliance with Chapter 21.50 (Permit Application Filing and Processing) and the applicable provisions of Chapter 21.52 (Coastal Development Review Procedures).

2. **Conditions.** If a proposed change is approved by the reviewing body, all terms and conditions of the original approval shall remain in effect, unless specifically removed or modified by the reviewing body. If a proposed change is denied by the reviewing body, the terms and conditions of the original permit shall remain in effect.

D. **Amendments to Coastal Development Permits Approved by the Coastal Commission.** Amendments to coastal development permits approved by the Coastal Commission, either prior to certification of the local coastal program or on appeal after certification of this Implementation Plan, shall not be processed by the City and instead shall be processed by the Coastal Commission.

21.54.080 – Resubmittals

A. **Resubmittal after Denial with Prejudice.** For a period of twelve (12) months following the actual date of denial with prejudice by the applicable review authority, or, if appealed, the actual date of denial by the applicable review authority considering the appeal, of a coastal development permit or amendment, no application for the same or substantially similar permit or amendment shall be filed for the same site, or any portion thereof.

B. **Exception to Subsection (A) of this Section.** The Director may allow exception to subsection (A) of this section based on one or more of the following findings:

1. New evidence material to a revised decision will be presented that was unavailable or unknown to the applicant at the previous hearing(s) and that could not have been discovered in the exercise of reasonable diligence by the applicant.

2. There has been a substantial and permanent change of circumstances since the previous hearing(s), that materially affects the applicant's real property.

3. A mistake was made at the previous hearing(s) that was a material factor in the denial(s) of the previous application.

C. **Resubmittal after Denial without Prejudice.** There shall be no limitation on subsequent applications for a site where a project was denied without prejudice.

D. **Director's Determination—Appeal.**

1. The Director shall determine whether a new application is for a permit or amendment that is the same or substantially similar to a previously approved or denied permit or amendment, and shall either process or reject the application in compliance with this section.

2. The Director's determination may be appealed to the Commission, in compliance with Chapter 21.64 (Appeals and Calls for Review).

21.54.090 – Covenants

A. **Applicability.** When necessary to achieve the land use goals and policies of the ~~General Plan~~ Local Coastal Program, the City may require a property owner to record a covenant and/or other limitation(s) in favor of the City. A covenant:

1. May be required to provide for necessary emergency access, landscaping, light and air access, open space, parking, public view protection, shoreline and bluff-top public access, solar access, resource protection, etc., or limitation(s) or restriction(s) on the use of property as a result of a ~~project~~ Coastal Development Permit approval; and

2. Shall be imposed as a condition of approval by the review authority.

B. **Form of Covenant.** The form of the covenant shall be approved by the City Attorney, and the covenant shall:

1. Describe the real property to be benefited by the covenant;

2. Identify the City permit or approval that relied on or required the covenant; and

3. Identify the purposes of the covenant.

C. **Recordation.** A covenant shall be recorded in the County Recorder's Office.

D. **Effect of Covenant.**

1. From and after the time of its recordation, a covenant shall provide notice to all persons to the extent afforded by the recording laws of the State.

2. The burdens of the covenant shall be binding on, and the covenant shall benefit all successors-in-interest to the real property.

E. **Enforceability.** A covenant shall be enforceable by the successors-in-interest to the real property affected by the covenant, and the City. This section shall not create standing in any person, other than the City, and any owner of the real property affected by the

covenant, to enforce or to challenge the covenant or any requested amendment or release.

F. **Release of Covenant.** A covenant may be released by the Director, or by another appropriate review authority in the event of an appeal, at the request of any affected person, including the City.

1. **Process for Release.** The release of a covenant shall require that the review authority first:

   a. Conduct a noticed public hearing in compliance with Chapter 21.62 (Public Hearings); and

   b. Find that the terms of the covenant on the site dictate if and when the covenant may be relased. ~~is no longer necessary to achieve the land use goals of the City.~~

2. **Recordation**. A notice of the release of the covenant shall be recorded by the Director in the County Recorder's Office.

3. **Fees.** The applicant for a release of a covenant shall pay the fee for the processing of the release in compliance with the City's fee schedule adopted by resolution.

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Chapter 21.62 – Public Hearings

Sections:

21.62.010 Purpose
21.62.020 Notice of Public Hearing
21.62.030 Hearing Procedure
21.62.040 Decision

21.62.010 – Purpose

This chapter provides procedures for public hearings required by this Implementation Plan. When a public hearing is required, advance notice of the hearing shall be given and the hearing shall be conducted in compliance with this chapter and with all other applicable laws, including the Ralph M. Brown Act, or any successor law.

21.62.020 – Notice of Public Hearing

This section provides notice requirements for coastal development permit applications requiring a public hearing ~~in compliance with Public Resources Code Section 30603 in compliance with California Code of Regulations Section 13063~~.

A. **Content of Notice.** Notice of a public hearing shall include all of the following applicable information.

1. **Hearing Information.**

a. The date, time, and place of the hearing and the name of the review authority;

b. A brief description of the City's general procedure concerning the conduct of hearings and decisions on applications (e.g., the public's right to appear and be heard);

c. The phone number, street address, and website of the City, where an interested person could call or visit to obtain additional information;

d. A statement that an interested person or authorized agent may appear and be heard at the public hearing and the procedures for appeal; and

~~e. A statement that if a person challenges the subject project in court, that person may be limited to raising only those issues that the person, or someone else speaking on their behalf, raised at the public hearing (described in the notice) or in written correspondence delivered to the City at, or before, the public hearing.~~

2. **Project Information.**

a. The name of the applicant;

b. The date of filing of the application;

c. The City's file number(s) assigned to the application;

d. A general explanation of the matter to be considered;

e. A general description, in text and/or by diagram, of the location of the property that is the subject of the hearing; and

f. If a negative declaration or Environmental Impact Report has been prepared for the project in compliance with the California Environmental Quality Act (CEQA) and the local CEQA guidelines, the hearing notice shall include a statement that the review authority will also consider approval or recommend approval of the negative declaration or certification of the Environmental Impact Report.

3. **Coastal Zone information.** The notice shall also include a statement that the project is located within the Coastal Zone and the ~~system~~ procedures of City and Coastal Commission appeals, including any City fees required, and a statement of whether or not the proposed development is appealable to the Coastal Commission.

B. **Method of Notice Distribution.** Notice of a public hearing required by this Implementation Plan shall be given as specified below.

1. **Publication.**

~~a. **Notice.** Notice~~ for all **coastal development permit** matters~~, except for a Local Coastal Program amendment,~~ shall be published at least once in a newspaper of general circulation in the City at least ten (10) calendar days before the scheduled hearing.

~~b. **Local Coastal Program Amendment Notice.** Notice for a Local Coastal Program amendment shall be published at least once in a newspaper of general circulation in the City at least ten (10) working days before the scheduled hearing.~~

2. **Mailing.** Notice for all coastal development permit matters shall be mailed or delivered at least ten (10) days before the scheduled hearing. The envelopes shall contain a legend, of sufficient size and legibility to be easily read, on the front of each envelope including words to the effect of "Important. Public Hearing Notice." The notice shall be mailed to all of the following:

a. **Project Site Owners and Applicant.** The owners of the property being considered in the application, or the owners' agent, and the applicant or the applicant's agent;

b. **Local Agencies.** Each local agency expected to provide schools, water, or other essential facilities or services to the project, whose ability to provide the facilities and services may be significantly affected;

c. **Nearby Property Owners.** All owners of property located within a three hundred (300) foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot or parcel upon which the development is proposed, as shown on the last equalized assessment roll or, alternatively, from other records that contain more recent addresses. It shall be the responsibility of the applicant to obtain and provide to the Department the names and addresses of all owners required by this section;

d. **Nearby residents.** For projects located within the Coastal Zone, notice shall also be mailed or delivered to each residential dwelling unit located within a 100-foot radius, excluding intervening rights-of-way and waterways, of the exterior boundaries of the subject lot or parcel upon which development is proposed, based upon the most recent equalized assessment roll. It shall be the responsibility of the applicant to obtain and provide to the Department the addresses of all dwelling units required by this section;

e. **Persons Requesting Notice.** Any person known to the applicant to be interested in the application, including any person who has testified or submitted written comments for any previously held local hearing and/or filed a written request for notice for that project site, or for City decisions within the Coastal Zone, with the Director; and

f. **Coastal Commission.** The South Coast District Office of the Coastal Commission.

3. **Posting of a Sign and Notice of Public Hearing.** Notice shall be posted on or close to the subject property in a prominent location at least ten (10) days before the scheduled public hearing in the following manner:

a. One or more signs shall be posted as determined by the Director.

b. The size and location of the sign(s) shall be as determined by the Director.

c. The project applicant shall be responsible for maintaining the sign(s) in a satisfactory condition.

d. The project applicant shall remove all sign(s) at the end of the appeal period.

4. **Alternative to Mailing.** If the number of property owners, residents, and interested persons to whom notice would be mailed in compliance with subsection (B)(2)(c) of this section is more than one thousand (1,000), the Director may choose to provide the alternative notice specified by State law where it is reasonable that such substitute notice is expected to be adequate or better notice rather than through a mailing notice. However, a mailed notice shall still be provided to those persons who have requested notice, including all persons known

to the applicant to be a party interested in the application, including those persons who testified at or submitted written comments for the local hearing(s).

5. **Failure to Receive Notice.** The failure of any person or entity to receive notice given in compliance with this section shall not be ground to invalidate the actions of the applicable review authority.

21.62.030 – Hearing Procedure

A. **Time and Place of Hearing.** A hearing shall be held at the date, time, and place for which notice was given.

B. **Continued Hearing.** A hearing may be continued without further notice, provided the official or chair of the review authority announces the date, time, and place to which the hearing will be continued before the adjournment or recess of the hearing.

C. **Deferral of Final Decision.** The review authority may announce a tentative decision and defer their action on a final decision until appropriate findings and/or conditions of approval have been prepared.

21.62.040 – Decision

A. **Decision.**

1. The review authority may announce and record their decision on the matter being considered at the conclusion of a scheduled hearing, or defer action and continue the matter to a later meeting in compliance with Section 21.62.030 (Hearing Procedure).

2. The Director or Zoning Administrator, as applicable, may instead refer the matter to the Commission for a decision.

B. **Effective Date of Decision.**

1. The decision of the applicable review authority is final and effective at the end of the applicable appeal period.

2. The decision of the Council shall be final on any coastal development permit matter except for ~~a Local Coastal Program amendment or~~ an appealable coastal development ~~project~~ permit as specified in the notice in compliance with Section 21.62.020 (Notice of Public Hearing), above, and as specified in Section 21.64.035 (Appleal to the Coastal Commission).

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Chapter 21.64 – Appeals and Calls for Review

Sections:

21.64.010 Purpose
21.64.020 Appeals or Calls for Review
21.64.030 Filing and Processing of Appeals and Calls for Review
21.64.035 Appeals to the Coastal Commission
21.64.040 Judicial Review of City Decision

21.64.010 – Purpose

The purpose of this chapter is to provide procedures for the appeal or call for review of determinations and decisions of the Director, Zoning Administrator, and Planning Commission, and to establish provisions for appeals to the Commission and Coastal Commission. Any provision of this Implementation Plan relating to appeals shall be considered a call for review and processed according to this chapter when initiated by a member of the Commission or City Council under Section 21.64.030(A) if the purpose for the call for review is to bring the matter in front of the entire body for review.

21.64.020 – Appeals or Calls for Review

A. **Director.** Interpretations of the Director may be appealed or called for review to the Planning Commission.

B. **Zoning Administrator.** Decisions of the Zoning Administrator may be appealed or called for review to the Planning Commission.

C. **Planning Commission.** Decisions of the Commission may be appealed or called for review to the Council.

21.64.030 – Filing and Processing of Appeals and Calls for Review

A. **Eligibility.** Appeals may be initiated by any interested party. Calls for review may be initiated by a member of the Planning Commission or City Council, in the member's official capacity, if the purpose for the call for review is to bring the matter in front of the entire body for review.

B. **Timing and Form of Appeal and Calls for Review.** An appeal shall be submitted in writing and shall state the facts and basis for the appeal. A call for review initiated by a member of the Commission or City Council, in their official capacity, shall be submitted in writing and shall be for the purpose of bringing the matter in front of the entire body for review.

1. **General Appeals.**

a. **Filing an Appeal or Call for Review.** An appeal or call for review shall be filed with the Director or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered.

(1) Appeals addressed to the Commission shall be filed with the Director on forms provided by the Department; and

(2) Appeals addressed to the Council shall be filed with the City Clerk on forms provided by the Clerk.

(3) Calls for review addressed to the Planning Commission shall be filed with the Director on forms provided by the Department; and

(4) Calls for review addressed to the City Council shall be filed with the City Clerk on forms provided by the Clerk.

b. **Filing Fee.**

(1) Coastal Development Permits. No fee shall be required for appeals regarding coastal development permits to the Coastal Commission.

~~(2) An appeal regarding any other action other than a coastal development permit shall be accompanied by the filing fee identified in the City's master fee schedule.~~

(~~3~~2) A call for review is exempt from the payment of a filing fee.

2. **Appeal by Coastal Commissioners.** An appeal of a City decision on a Coastal Development Permit by two (2) Coastal Commissioners shall be subject to Section 21.64.035, below.

C. **Report, Scheduling, Noticing, and Conduct of Hearing.**

1. The decision from which an appeal or call for review has been made has no force of effect as of the date on which the appeal or call for review is filed. When an appeal or call for review has been filed, the Director shall prepare a report on the matter, including all of the application materials in question, and schedule the matter for a public hearing by the appropriate review authority identified in Section 21.64.020 (Appeals and Calls for Review).

2. Notice of the hearing shall be provided, and the hearing shall be conducted, in compliance with Chapter 21.62 (Public Hearings).

3. **Conduct of Hearing.**

a. Review of an appeal from a decision of the Zoning Administrator or Commission shall be de novo. On review, the Council may sustain, reverse, or modify the decision of the Commission, or remand the matter for further consideration, which remand shall include either specific issues to be considered or a direction for a new hearing.

A call for review of a decision of the Zoning Administrator, Planning Commission, or the Director, including Director interpretations, shall be de novo. The body hearing a matter that is called for review shall follow the same procedure applicable to the lower hearing.

b. The review authority is not bound by the decision that has been appealed or called for review or limited to the issues raised on appeal.

c. The review authority shall hear testimony of the appellant, the applicant, and any other interested party.

d. The review authority shall consider the same application, plans, and project-related materials that were the subject of the original decision, unless otherwise deemed relevant by the review authority.

D. **Decision on Appeal or Call for Review.**

1. As provided in this Implementation Plan, the review authority may, based upon findings of fact about the particular case:

a. Affirm, affirm in part, or reverse the action, determination, or decision that is the subject of the appeal or call for review. Adopted findings shall identify the reasons for the action on the appeal;

b. Adopt additional conditions of approval that may address issues or concerns other than those that were the basis of the appeal; or

c. Deny the permit approved by the previous review authority, even where the appellant only requested a change or elimination of one or more conditions of approval.

2. If new or different evidence is presented on appeal or review, the Commission or Council may refer the matter to the previous review authority for further consideration.

3. In the event of a tie vote by the review authority on an appeal or call for review, the decision being appealed shall stand.

21.64.035 – Appeal to the Coastal Commission

A final action taken by the City on a Coastal Development Permit application for appealable development as defined in Subsection A., below, may be appealed to the Coastal Commission in compliance with this Section and Title 14 California Code of Regulations sections 13111-13120 and Section 30603 of the Coastal Act. If there is any conflict between the provisions of this Section or Title 14 California Code of Regulations sections 13111-13120 and Section 30603 of the Coastal Act, Title 14 California Code of Regulations sections 13111-13120 and Section 30603 of the Coastal Act shall control.

A. **Appealable development - Public Resources Code Section 30603(a).** A decision by the City on a ~~C~~coastal ~~D~~development ~~P~~permit application within the appeal areas identified in Public Resources Code Section 30603(a) as generally depicted on

the Post-LCP Certification Permit and Appeal Jurisdiction Map or on any development approved or denied by the City on a coastal development permit application for a project that constitutes a major public works project or energy facility may be appealed to the Coastal Commission.

B. **Status of appellant.**

1. **Who May Appeal.** An appeal may be filed by an applicant, an aggrieved person, or two (2) members of the Coastal Commission in compliance with Public Resources Code Section 30625.

2. **Aggrieved Person Defined.** As provided by Public Resources Code Section 30801, an aggrieved person is anyone who, in person or through a representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or action appealed, or who by other appropriate means prior to a hearing, informed the City of the nature of their concerns or who for good cause was unable to do either.

C. **Exhaustion of City Appeals Required.** An applicant or other aggrieved person may appeal a City decision on a Coastal Development Permit application to the Coastal Commission only after exhausting all appeals to the Planning Commission and Council in compliance with this Chapter. This limitation Except that exhaustion of all local appeals shall not be required if apply to any of the circumstances identified in Code of Regulations Section 13573 apply, including, but not limited to, the following circumstances:

1. An appellant was denied the right of the initial local appeal under this Chapter because City notice and hearing procedures did not comply with Title 14, Division 5.5, Chapter 8, Subdivision Subchapter 2, Article 17 of the California Code of Regulations; or

2. An appeal of a City decision was filed by two (2) members of the Coastal Commission in compliance with Public Resources Code Section 30625. (Notice of a Coastal Commissioners' appeal shall be transmitted to the City in compliance with Title 14 California Code of Regulations Section 13573(b)13111(d). The City may transmit the Commissioner appeal to the local appellate body (which considers appeals from the local body that rendered the final decisions subject to the Commissioner appeal), and the Commissionershall may be suspended pending a decision on the mertis by that local appellate bodywhere the City decision has been appealed. If the final action by an appellate body modifies or reverses the previous decision, the Coastal Commissioners shall be required to file a new appeal of from that decision if deemed appropriate and necessary.)

D. **Grounds for Appeal to Coastal Commission - Public Resources Code Section 30603.** The grounds for an appeal to the Coastal Commission of a City decision final action on a Coastal Development Permit application are as follows:

1. For approval of a Coastal Development Permit as described in Subsection A., above, an allegation that the project does not conform to the standards of the Local Coastal Program or the public access policies of the Coastal Act;

2. For denial of a development described in Subsection A., above, an allegation that the project conforms to the standards of the Local Coastal Program and the public access policies of the Coastal Act.

E. **Notice of Final Action on Appeals within the Coastal Zone.** Where a~~n~~ local appeal has been filed and decided on a project that is appealable to the Coastal Commission in compliance with this Section, the City shall provide notice of the final action (See also the requirements of Chapter 21.52.015 (H) – Notice of Final Action).

F. **Time Limit for Filing an Appeal to the Coastal Commission.** An appeal of a Council decision on an appealable development shall be filed with the Coastal Commission within ten (10) working days of the receipt by the Coastal Commission of adequate notice of final City action, in compliance with this Chapter and the Coastal Act. The beginning of ten (10) working-day appeal period shall be established by Coastal Commission staff.

G. **Notice to City of Appeal to Coastal Commission.** An appellant shall notify the applicant, any persons known to be interested in the application and the City ~~when appealing to the Coastal Commission by providing the City a copy of the appeal within five (5) days~~ of the filing the appeal. Notification shall be by delivering a copy of the completed Notice of Appeal to the domicile(s), office(s), or mailing address(es) of said parties. In any event, such notification shall be by such means as may reasonably advise said parties of the pendency of the appeal. Unwarranted failure to perform such notification may be grounds for dismissal of the appeal by the Commission.

21.64.050 – Judicial Review of City Decision

A person shall not ~~seek judicial review~~ file a petition for writ of mandate, challenging ~~of~~ a City decision on a coastal development permit ~~or other matter~~ until all appeals or calls for review, if applicable, to the Commission and Council have been first exhausted in compliance with this chapter.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

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~~Chapter 21.66 – Amendments~~

~~Sections:~~

~~21.66.010 Purpose~~
~~21.66.020 Initiation of Amendment~~
~~21.66.030 Processing, Notice, and Hearing~~
~~21.66.040 Required Findings~~
~~21.66.050 Commission Recommendation~~
~~21.66.060 Council Decision~~
~~21.66.075 Submittal to the Coastal Commission~~
~~21.66.085 Effective Dates~~

~~21.66.010 Purpose~~

~~This chapter provides procedures for the amendment of the Local Coastal Program.~~

~~21.66.020 – Initiation of Amendment~~

~~An amendment may be initiated in the following manner:~~

~~A. **Council.** By the Council, with or without a recommendation from the Commission;~~

~~B. **Commission.** By the Commission;~~

~~C. **Property Owner(s).** An amendment to the Coastal Land Use Plan Map or Coastal Zoning Map may also be initiated by the filing of an amendment application with the Department by the owner(s) or authorized agent(s) of property for which the amendment is sought. All owners or their authorized agents shall join in filing the application; or~~

~~C. **Public Works/Energy Facilities.** Pursuant to California Public Resources Code Section 30515, any person or agency authorized to undertake a public works project or proposing an energy facility development may apply for an amendment to the Local Coastal Program if the purpose of the proposed amendment is to meet public needs of an area greater than that included within the Local Coastal Program that had not been anticipated by the person or agency making the request at the time the Local Coastal Program was before the Coastal Commission for certification. If, after review pursuant to the requirements of this Article, the City Council does not amend the Local Coastal Program, such person or agency may file a request for amendment to the Local Coastal Program with the Coastal Commission.~~

~~21.66.030 – Processing, Notice, and Hearing~~

~~If initiated by the filing of an amendment application:~~

A. **Process.** The application shall be processed in compliance with Chapter 21.50 (Permit Application Filing and Processing).

B. **Notice.** Notice of the public hearings shall be provided in compliance with Chapter 21.62 (Public Hearings).

C. **Hearing.**

1. The applicable review authority shall conduct one or more public hearings regarding the amendment.

2. The public hearings shall be conducted in compliance with Chapter 21.62 (Public Hearings).

21.66.040 – Required Findings

An amendment to the Local Coastal Program may be approved by the City only if all of the following findings are first made.

A. The proposed amendment is consistent with the General Plan, Coastal Land Use Plan, Coastal Act, and any applicable specific plan; and

B. The proposed amendment would not be detrimental to the public interest, health, safety, convenience, or welfare of the City.

21.66.050 – Commission Recommendation

The Commission shall recommend approval, approval with modifications, or denial of the amendment to the Council.

A. **Action by the Commission.**

1. If approved or approved with changes, the Commission shall make and file a report of its findings and recommendations with the Council.

2. Failure of the Commission to take action on the proposed amendment shall be deemed to be denial of the proposed amendment by the Commission.

B. **Denial by the Commission.** If the proposed amendment is denied by the Commission, no further action shall be taken, unless appealed to the Council in compliance with Chapter 21.64 (Appeals and Calls for Review).

21.66.060 – Council Decision

A. **Time of Hearing.** The decision of the Council shall be rendered within sixty (60) days after the receipt of a report and recommendation of approval from the Commission or within sixty (60) days after the filing of an appeal of the Commission's action to deny the amendment.

B. **Notice of Appeal.** Notice shall be given to the Commission of the appeal, and the Commission shall submit a report of its findings and recommendations to the Council specifying the reasons for the Commission's decision.

C. **Council's Decision.** Upon receipt of the Commission's recommendation, the Council shall conduct a public hearing and either approve, approve in modified form, or deny the proposed amendment.

D. **Referral.**

1. If the Council proposes to adopt a substantial change to the amendment not previously considered by the Commission, the proposed change shall be first referred to the Commission for its recommendation.

2. Failure of the Commission to take action on the proposed change within forty-five (45) days shall be deemed to be approval of the proposed change by the Commission.

21.66.075 – Submittal to the Coastal Commission

A. **Compliance with Coastal Act required.** An amendment to the Local Coastal Program approved by the Council in compliance with this Chapter shall be prepared for submittal, filed with the Coastal Commission, and processed and decided by the Coastal Commission in compliance with the Coastal Act.

B. **Submittal to the Coastal Commission.**

1. **Frequency of Submittals.** Only three submittals of proposed Local Coastal Program amendments shall be allowed in any single calendar year. However, there are no limitations on the number of amendments included in each of the three submittals.

2. **Submittal.** Submittal of a Local Coastal Program amendment shall be made in compliance with the resolution adopted by the Council and submitted by the City to the Coastal Commission in compliance with Code of Regulations Section 13551.

c. **Contents.** The contents of the Local Coastal Program amendment application shall be in compliance with Code of Regulations Section 13552.

3. **Notice of availability.** Notice of the availability of the review draft of the Local Coastal Program amendment shall be made as soon as the draft is available, but at a minimum of at least six (6) weeks before final City action on the document in compliance with Code of Regulations Section 13515(c).

C. **Following action by Coastal Commission.**

1. **Action by Coastal Commission.** After certification of a Local Coastal Program amendment, the Coastal Commission shall transmit copies of the resolution of certification and any suggested modifications and findings to the City in compliance with Code of Regulations Section 13544.5 (Effective Date of Certification of a Land Use Plan).

2. **Action by the City.** The City shall then:

a. Acknowledge receipt of the Coastal Commission's resolution of certification including any terms or modifications which may have been required for final certification;

b. Consider the terms and modifications; and

c. Take appropriate action regarding the terms and modifications.

21.66.085 – Effective Dates

An amendment to the Local Coastal Program shall not become effective until final certification by the Coastal Commission, in compliance with the Public Resources Code and the Coastal Commission Administrative Regulations, and final approval by the Council.

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Chapter 21.68 – Enforcement

Sections:

21.68.010 Purpose
21.68.020 Permits and Approvals
21.68.050 Legal Remedies

21.68.010 – Purpose

This chapter establishes provisions that are intended to ensure compliance with the requirements of this Implementation Plan and any conditions of a permit or approval. However, nothing contained within this chapter shall prohibit the City from taking or initiating any other enforcement actions as provided for by this Implementation Plan or other applicable law.

21.68.020 – Permits and Approvals

A. **Compliance with Implementation Plan.** All departments, officials, and employees of the City who are assigned the authority or duty to issue approvals or permits shall only do so in compliance with the provisions of this Implementation Plan.

B. **Permits Deemed Void.** An approval or permit issued in conflict with the provisions of this Implementation Plan shall be deemed void.

21.68.050 – Legal Remedies

The City may choose to undertake any one or all of the following actions to correct and/or abate any violations of this Implementation Plan.

A. **Code Enforcement**. The City may use any or all of the code enforcement provisions specified in Title 1 of the Newport Beach Municipal Code.

B. **Revocations or Changes.** Any real property found to be used, maintained, or allowed to exist in violation of any permit(s) approved by the City may subject the permit to revocation or change proceedings.

1. **Revocations**. The City's action to revoke a permit shall have the effect of terminating the permit and disapproving the privileges granted by the original approval.

2. **Changes**. The City's action to change or add any conditions attached to a permit instead of revoking it may include any aspect of the project, including buffers, duration of the permit or entitlement, hours of operation, landscaping and maintenance, lighting, parking, performance guarantees, property maintenance, signs, surfacing, traffic circulation, or any other aspect/condition determined to be

necessary to ensure that the permit or variance is operated or implemented in a manner consistent with the original findings for approval.

C. **Enforcement Pursuant to the Coastal Act**. In addition to the enforcement provisions contained in this Chapter, the provisions of Chapter 9 of Division 20 of the Public Resources Code shall also apply with respect to violations and enforcement and the City and the Commission shall have the enforcement powers described therein.

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Chapter 21.70 – Definitions

Sections:

21.70.010 – Purpose of Part
21.70.020 – Definitions of Specialized Terms and Phrases

21.70.010 – Purpose of Part

This part provides definitions of terms and phrases used in this Implementation Plan that are technical or specialized, or that may not reflect common usage. If the definitions in this part conflict with definitions in other provisions of the Municipal Code, these definitions shall control for the purposes of this Implementation Plan. If a word is not defined in this part, or elsewhere in this Implementation Plan, the most common dictionary definition is presumed to be correct.

As used in this Implementation Plan, the following terms and phrases shall have the meaning ascribed to them in this part, unless the context in which they are used clearly requires otherwise.

21.70.020 – Definitions of Specialized Terms and Phrases

A. "A" Definitions

"Abandon" means to cease or suspend from developing or maintaining a structure or use for a stated period of time.

ABC. See "Alcoholic Beverage Control (ABC)."

"**Abutting/adjoining"** means contiguous to, having district boundaries or lot lines in common (i.e., not separated by an alley, public or private right-of-way, or street). See "Adjacent."

"Access" means a safe, adequate, and usable way of approaching or entering a property or use, including ingress (the right to enter) and egress (the right to exit).

Accessory Dwelling Unit (Land Use). See "Dwelling unit, senior accessory."

"Accessory" means a structure or use that is a part of, and clearly incidental and secondary to, a structure or use and that does not change the character of the structure or use.

Accessory Structure (Land Use).

1. **"Nonresidential accessory structure"** means an attached or detached structure that is a part of, and clearly incidental and secondary to, a nonresidential structure and that does not change the character of the nonresidential structure. Illustrative examples of these structures include:

a. Decks.
b. Fences.
c. Garages.
d. Gazebos.
e. Kiosks and carts for selling beverages, food, clothing, phones, toys, etc.
f. Outdoor fireplaces.
g. Outdoor kitchens.
h. Outdoor play equipment.
i. Patios.
j. Platforms.
k. Porches.
l. Refuse collection structures/trash enclosures.
m. Spas and hot tubs.
n. Storage or work sheds.
o. Swimming pools.
p. Tennis and other on-site sport courts.
q. Terraces.
r. Walls (i.e., property boundary walls, garden walls, retaining walls, crib walls).
s. Workshops.

2. **"Residential accessory structure"** means an attached or detached structure that is a part of, and clearly incidental and secondary to, a residence and that does not change the character of the residential structure. Does not include granny units (see "Accessory dwelling unit"). Illustrative examples of these structures include:

a. Carports.
b. Decks.
c. Fences.
d. Fireplaces and fire pits.
e. Garages.
f. Gazebos.
g. Greenhouses (noncommercial).
h. Outdoor play equipment.
i. Patios.
j. Platforms.
k. Porches.
l. Spas and hot tubs.
m. Storage or work sheds.
n. Studios.
o. Swimming pools.
p. Tennis and other on-site sport courts.
q. Terraces.
r. Walls (i.e., property boundary walls, garden walls, retaining walls, crib walls).
s. Workshops.

Accessory Use (Land Use).

1. **“Nonresidential accessory use”** means a use that is at all times a part of, and clearly incidental and secondary to, a principal use; that does not change the character of the nonresidential use; and that does not necessitate an increase in required number of parking spaces. Includes the retail sales of various products or the provision of services in a defined area that is located within a health care, hotel, office, or industrial complex for the purpose of serving employees or customers, and that is typically not visible from public streets. Does not include accessory alcohol sales, off-sale or on-sale (see “Alcohol sales”). Illustrative examples of these uses include:

    a. ATMs.
    b. Child day care.
    c. Dry cleaning (collection/pick-up only).
    d. Food service establishments.
    e. Gift shops.
    f. Newsstands.
    g. Pharmacies.
    h. Travel services.
    i. Vending machines.
    j. Personal service, general.

2. **“Residential accessory use”** means a use that is a part of, and clearly incidental and secondary to, a residence; located on the same lot as a residence; and that does not change the character of the residential use. Illustrative examples of these uses include:

    a. Home occupations.
    b. Personal property sales (i.e., garage or yard sales).

“Accretion” means enlargement of a beach area caused by either natural or artificial means. Natural accretion on a beach is the build-up or deposition of sand or sediments by water or wind. Artificial accretion is a similar build-up due to human activity, such as the accretion due to the construction of a groin or breakwater, or beach fill deposited by mechanical means.

“Adjacent” means the condition of being near to, or close to, but not having a common boundary or dividing line. Properties that are separated by a public access easement, alley, public or private right-of-way, street (other than arterial highways or commuter roadways identified in the Circulation Element of the General Plan), or by a creek, river, stream, or other natural or artificial waterway shall be considered as adjacent to one another. See “Abutting/adjoining.”

Adjoining. See “Abutting/adjoining.”

Adult Day Care (Land Use). See “Day care.”

Adult-Oriented Businesses (Land Use) means any business establishment or concern which as a regular and substantial course of conduct performs as an adult bookstore, adult theater, adult motion picture arcade, adult cabaret, stripper, adult model studio, adult motel/hotel; any business establishment or concern which as a regular and substantial course of conduct sells or distributes sexually oriented merchandise or sexually oriented material; or any other business establishment or concern which as a regular and substantial course of conduct offers to its patrons products, merchandise, services or entertainment characterized by an emphasis on matters depicting,

describing or relating to specified sexual activities or specified anatomical parts. “Adult-oriented business” does not include those uses or activities, the regulation of which is preempted by State law. A business establishment or concern has established the provision of products, merchandise, services or entertainment characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical parts as a regular and substantial course of conduct when one or more of the following conditions exist:

1. The area devoted to adult merchandise and/or sexually oriented material exceeds more than twenty-five (25) percent of the total display or floor space area open to the public;

2. The business establishment or concern presents any type of live entertainment which is characterized by an emphasis on specified sexual activity or specified anatomical parts at least four times in any month;

3. The regular and substantial course of conduct of the business consists of or involves the sale, trade, display or presentation of services, products, or entertainment which are characterized by an emphasis on matter depicting, describing or relating to specified sexual activity or specified anatomical parts.

“Affordable housing agreement” means an agreement entered into between the City and a developer or property owner that restricts the rental or sale of affordable units to very low-income, low-income, and/or moderate-income households. See “Very low-income household,” “Low-income household,” and “Moderate-income household.”

“Agent” means a person authorized in writing by the property owner to represent and act for a property owner in contacts with City employees, committees, commissions, and the Council, regarding matters regulated by this Implementation Plan.

“Aggrieved Person” means~~anyone~~ any person who, in person or through a representative, appeared at a public hearing held before the Zoning Administrator, Planning Commission, or Council in connection with the decision or action appealed, or who by other appropriate means prior to a hearing, informed the City of the nature of their concerns or who for good cause was unable to do either (Public Resources Code Section 30801).

“Alcohol sales, off-sale (land use)” means an establishment that sells, serves, or gives away alcoholic beverages for consumption off the premises and that is applying for or has obtained an ABC License Type 20 (off-sale beer and wine—package store) or License Type 21 (off-sale general—package store). The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee. Does not include an establishment that sells alcoholic beverages as an accessory line of merchandise. See “Alcohol sales, off-sale, accessory only.”

“Alcohol sales, off-sale, accessory only (land use)” means an establishment that has all of the following characteristics:

1. Alcoholic beverages will be or are sold, served, or given away for consumption off the premises where sold, served, or given away;

2. The establishment is applying for or has obtained an ABC License Type 20 (off-sale beer and wine—package store) or License Type 21 (off-sale general—package store); and

3. The sale of alcoholic beverages is accessory to the retail sale of food products and the display area for alcoholic beverages does not exceed thirty (30) percent of the net floor area of the use. Illustrative examples include convenience markets, drug stores, grocery stores, and supermarkets, but do not include convenience markets.

"Alcohol sales, on-sale" means an establishment that sells, serves, or gives away alcoholic beverages for consumption on the premises and that is applying for or has obtained any ABC Licenses for on-site consumption. The establishment shall include any immediately adjacent area that is owned, leased or rented, or controlled by the licensee. May include "Bars, lounges, and nightclubs," "Eating and drinking establishments," or "Alcohol sales, on-sale, accessory only."

"Alcohol sales, on-sale, accessory only (land use)" means an establishment that has all of the following characteristics:

1. Alcoholic beverages will be or are sold, served, or given away for consumption on site;

2. The establishment is applying for or has obtained a restricted license, seasonal license, or similar special purpose license (e.g., ABC License Type 51 (Club); ABC License Type 57 (Special On-Sale General); ABC License Type 60 (On-Sale Beer—Seasonal), etc.); and

3. The sale of alcoholic beverages is only accessory to a commercial recreation use. Illustrative examples include snack bars and concession stands at recreation facilities.

4. Not more than thirty (30) percent of the net floor area of the primary use is dedicated to alcohol sales/display.

"**Alcoholic beverage"** means a fermented or distilled beverage including alcohol, spirits, liquor, wine, beer, and every other liquid or solid containing alcohol, spirits, wine or beer that contains one-half of one percent or more of alcohol by volume and that is fit for beverage purposes either alone or when diluted, mixed, or combined with other substances.

"Alcoholic Beverage Control (ABC)" means the California State Department of Alcoholic Beverage Control.

"Alley" means a public or private roadway or easement, generally not more than thirty (30) feet wide, that provides vehicle access to the rear or side of lots having other public street frontage and that is not intended for general traffic circulation.

"Allowed use" means a use of land identified by Part 2 of this Implementation Plan (Zoning Districts, Allowable Land Uses, and Zoning District Standards) as a permitted or conditional use that may be established subject to compliance with applicable provisions of this Implementation Plan.

"Alteration" means a change, addition, or modification in construction or occupancy of an existing structure.

"Alteration, landform" a change or modification that is caused by human activities to a terrain feature formed by natural processes.

"Alteration, structural" means a change or replacement in the supporting members of a structure (e.g., bearing walls, columns, beams, girders, foundations, etc.).

"Alternative transportation modes" means a mode of travel that serves as an alternative to the single-occupant motor vehicle (e.g., carpooling, ridesharing, vanpooling, public transit, bicycling, walking, etc.).

"Ambulance services (land use)" means a privately owned facility for the dispatch, storage, and minor maintenance of emergency medical care vehicles.

Ancillary. See "Accessory."

Animal-Keeping (Land Use).

1. **"Animal, domestic farm"** means an animal, other than a household pet, that is customarily considered to be livestock and is kept for noncommercial education or recreation purposes (e.g., fowl, goats, pigs, sheep, horses, cattle, etc.). Does not include potbellied pigs.

2. **"Animal, domestic pet"** means a type of animal that is customarily kept by humans for companionship and that lives in or near human habitation (e.g., cats, dogs, gerbils, hamsters, guinea pigs, rabbits, nonpoisonous reptiles and snakes, etc.). Includes potbellied pigs.

3. **"Animal, wild"** means an animal that is not customarily confined or cultivated by man for domestic or commercial purposes but kept for display. Includes an animal that may be imported, transported, or possessed only by first obtaining a California Department of Fish and Game Permit, as required in California Code of Regulations Title 14, Section 671 (Importation, Transportation and Possession of Live Restricted Animals).

Animal Sales and Services (Land Use).

1. **"Animal boarding/kennel"** means an establishment where more than three dogs over the age of four months, three cats over the age of four months, or three other animals are treated, conditioned, boarded, raised, or offered for sale for any form of compensation including donations by a person or entity.

2. **"Animal grooming"** means an establishment that bathes, clips, or combs animals for the purpose of enhancing their aesthetic value or health.

3. **"Animal retail sales"** means retail sales and boarding of animals offered for sale.

4. **"Veterinary service"** means an establishment where veterinarians provide medical and surgical treatment to animals and accessory boarding services.

"Antenna" means a device used to transmit and/or receive radio or electromagnetic waves between earth and/or satellite-based systems (e.g., reflecting discs, panels, microwave dishes, whip antennas, antennas, etc.).

1. **"Amateur radio antennas"** means an antenna that is used for the purpose of transmitting and receiving radio signals in conjunction with an amateur radio station licensed by the Federal Communications Commission.

2. **"Antenna structure"** means a supporting mast or tower for an antenna.

3. **"Mast"** means a pole of wood or metal used to support an amateur radio antenna and maintain it at the proper elevation.

4. **"Satellite dish antenna"** means a parabolic and/or disk-shaped antenna of either solid or mesh construction, intended for the purposes of receiving communications from an orbiting satellite, transceiving or transmitting signals or communications to a satellite, as well as supporting equipment necessary to install or mount the antenna.

5. **"Whip antenna"** means an antenna, consisting of a single, slender, rod-like element less than one wavelength long, that is supported only at or near its base.

"Apartment" means one or more rooms of a structure designed for and rented as the home, residence, or sleeping place of one or more persons living as a single housekeeping unit, in a structure containing at least five units used for the same purpose, all under one ownership. See "Dwelling, multi-unit."

"Appeal" means that the review authority may consider and decide upon appeals to the decision of a previous decision-making body, in compliance with Chapter 21.64 (Appeals and Calls for Review).

"Appeal Area" means that portion of the Coastal Zone, designated in compliance with California Coastal Act Section 30603 and approved by the Coastal Commission, in which City decisions on Coastal Development Permits may be appealed to the Coastal Commission. The appeal area(s) is/are generally depicted on the Post-LCP Certification Permit and Appeal Jurisdiction Map. See "Post-LCP Certification Permit and Appeal Jurisdiction Map."

"Applicant" means owner(s) or owner-authorized lessee(s) of property, or prospective owner(s)/lessee(s) who have contracted to purchase or lease property contingent upon their ability to acquire the necessary permits, or their agent(s) (see "Agent"), or who are seeking to obtain a development permit. This term includes the successor(s)-in-interest.

"Approval in Concept" as defined in Subsection 21.52.015, (Coastal Development Permits), a statement that a proposed development project conforms in concept to all applicable City land use and property development regulations and standards, including applicable discretionary actions, and therefore entitles an owner to apply to the Coastal Commission for a Coastal Development Permit.

"Aquaculture" means a form of agriculture devoted to the controlled growing and harvesting of fish, shellfish, and plants in marine, brackish, and fresh water.

“Area, net public” means the total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.

“Artist’s studio (land use)” means work space for artists and artisans, including individuals practicing one of the fine arts, or skilled in an applied art or craft, and producing custom-made works. Does not include handicraft industries (see “Handicraft industry”).

“Assembly/meeting facilities, public or private (land use)” means a facility for public or private assembly and meetings. May include incidental ~~serving of alcoholic~~ food and beverage service. Illustrative examples of these uses include:

1. Banquet rooms.

2. Civic and private auditoriums.

3. Community centers.

4. Conference/convention facilities.

5. Meeting halls for clubs and other membership organizations.

6. Places of worship, including limited associated accessory uses (i.e., religious school activities that are not full-time and residences for clergy (see “Caretaker residence”), and excluding schools with regular daily sessions.

7. Sports stadiums and arenas.

8. Yacht clubs.

Also includes functionally related internal facilities (i.e., kitchens, multi-purpose rooms, storage, etc.). Does not include conference and meeting rooms that are accessory and incidental to another principal use and typically used only by on-site employees and clients, and that occupy less floor area on the site than the principal use they support. Does not include sports or other commercial entertainment facilities (see “Commercial entertainment and recreation”). Does not include funeral homes and mortuaries (see “Funerals homes and mortuaries”). Related on-site facilities including day care centers and schools are separately defined (see “Day care, general” and “Schools, public and private”).

“ATM (automated teller machine) (land use)” means an automated device used by the public to conduct banking and financial transactions electronically (i.e., withdrawing cash from, or depositing cash or checks into, a bank, savings, credit union, credit card or similar account). Does not apply to retail point-of-sale transactions within a fully enclosed structure.

“Attic” means an unfinished enclosed area that is not habitable and that is located between roof framing and the adjacent ceiling/side walls of immediately adjacent habitable rooms. Sometimes used for storage or mechanical equipment.

"Awning" means an ornamental roof-like cover that is attached to the side or wall of a structure and projects over a window, doorway, or pedestrian walkway for protection from the sun or weather (see "Canopy" and "Patio cover").

B. "B" Definitions.

"Balcony" means a platform that projects from the wall of a structure, typically above the first level; is not supported by columns or pillars; and is surrounded by a rail or parapet. See "Deck."
Bar. See "Eating and drinking establishments."
Basement.

1. **"Subterranean basement"** means that portion of a building located below grade, provided the finished floor above is not more than eight inches above grade at any point.

2. **"Daylight basement"** means that portion of a building that is partly below grade, but with the finished floor above more than eight inches above grade at any point. Also includes a "walkout" basement, which provides access from the basement to the outside.

Bar. See "Eating and Drinking Establishments."

"Bay window" means a window or series of windows that project outward from a wall of a structure forming a bay or alcove in a room within. This definition includes bow, oriel, greenhouse, and similar projecting windows.

"Beach" means the expanse of sand, gravel, cobble, or other loose material that extends landward from the mean low water line to the place where there is distinguishable change in physiographic beach form, or to the line of permanent vegetation. The seaward limit of a beach (unless specified otherwise) is the mean low water line.

Bed and Breakfast Inns. See "Visitor accommodations."

"Bedroom" means an enclosed space in a structure that is designed to be used for sleeping purposes; that meets the room dimension requirements of the most recent edition of the California Building Code; that is not accessed directly from the garage; and that has one or more windows.

"Berm" means a mound or embankment of earth. Also a nearly horizontal portion of the beach or backshore formed by the deposit of material by wave action.

"Berth" means any location such as a floating dock, slip, side tie, mooring and the related area (berthing area or space) adjacent to or around it, allocated to tie up and/or store a boat.

"Best management practices (BMPs)" means activities, practices, facilities, and/or procedures that when implemented to their maximum efficiency will prevent or reduce pollutants in discharges; and a program, technology, process, siting criteria, operational methods or measures, or engineered system that, when implemented, prevents, controls, removes, or reduces pollution. Examples of BMPs include public education and outreach, proper planning of development projects, as well as stormwater treatment and detention facilities.

"Site Design BMP" means any project design feature that reduces the creation or severity of potential pollutant sources or reduces the alteration of the project site's natural flow regime. Redevelopment projects that are undertaken to remove pollutant sources (such as existing surface parking lots and other impervious surfaces) or to reduce the need for new roads and other impervious surfaces (as compared to conventional or low-density new development) by incorporating higher densities and/or mixed land uses into the project design, are also considered Site Design BMPs.

"Source control BMP (both structural and non-structural)" means land use or site planning practices, or structures that aim to prevent urban runoff and stormwater pollution by reducing the potential for contamination at the source of pollution. Source Control BMPs minimize the contact between pollutants and urban runoff. Examples include roof structures over trash or material storage areas, and berms around fuel dispensing areas.

"Treatment control BMP" means any engineered system designed to remove pollutants by simple gravity settling of particulate pollutants, filtration, biological uptake, media adsorption or any other physical, biological or chemical process.

"Block" means an area of land that is bounded on all sides by streets, or by streets and a beach or bulkhead, or by streets and a cul-de-sac or by another form of termination of the street.

"Bluff" means a high bank or bold headland that slopes down to a body of water or a plain. A bluff may consist of a gently sloping upper area and a steeper lower area.

"Bluff, Coastal" means a bluff overlooking a beach or shoreline or that is subject to marine erosion. For purposes of establishing jurisdictional and permit boundaries, (1) those bluffs, the toe of which is now or was historically (generally within the last 200 years) subject to marine erosion; and (2) those bluffs, the toe of which is not now or was not historically subject to marine erosion, but the toe of which lies within an area otherwise identified as an Appeal Area.

"Bluff edge" means the upper termination of a bluff. In cases where the top edge of the bluff is rounded away from the face of the bluff as a result of erosional processes related to the presence of the steep bluff face, the bluff edge shall be defined as that point nearest the bluff beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the bluff. In a case where there is a step-like feature at the top of the bluff face, the landward edge of the topmost riser shall be taken to be the bluff edge. Bluff edges typically retreat landward due to erosion, landslides, development of gullies, or by grading (cut). In areas where the bluff top or bluff face has been cut or notched by grading, the bluff edge shall be the landward-most position of either the current or historic bluff edge. In areas where fill has been placed near or over the historic bluff edge, the original natural bluff edge, even if buried beneath fill, shall be taken to be the bluff edge.

"Bluff face" means the downward gradient of a bluff surface between the bluff edge and the toe of the bluff.

"Bluff toe" means, the point at which the bluff face meets the shore platform or, for non-coastal bluffs, a plain. For coastal bluffs, also known as the shoreline angle. ~~for bluffs subject to marine erosion, the point at which the landward extent of the mean high water line of the sea meets the~~

~~face of the bluff. For bluffs not subject to marine erosion, the point where the downward slope of the bluff face first decreases to a grade of less than thirty-three (33) percent.~~

"Boarding or rooming house" means a residence or dwelling unit, or part thereof, wherein a room or rooms are rented under two or more separate written or oral rental agreements, leases or subleases or combination thereof, whether or not the owner, agent or rental manager resides within the residence. See "Group residential."

Boat Rentals and Sales. See "Marine rentals and sales."

Boat Storage. See "Marine services."

Boat Yard. See "Marine services."
"Buildable area" means the area of a development site, excluding the minimum front, side, and rear setback areas as applied to residential properties only.

"Breakwater" means a structure or barrier protecting a shore area, harbor, anchorage, or basin from waves, usually constructed as a concrete or riprap (rock wall) structure.

"Building" means a structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, chattels, or property of any kind. See "Structure."

"Building Code" means Title 15 (Buildings and Construction) of the Newport Beach Municipal Code.

"Building materials and services (land use)" means retailing or wholesaling of building supplies or equipment (e.g., fixtures, glass, lawn and garden supplies, lumber, nursery stock, paint, tools, wallpaper, etc.) where the majority of display, sales, and storage activities occur indoors. Rental activities are incidental to the sales activities. Does not include "Contractor's storage yards," "Retail sales, general," or "Wholesaling."

"**Building site"** means a lot and/or adjoining lots that constitute a site eligible for building development under the requirements of ~~Title 19 (Subdivision Code) of the City of Newport Beach Municipal Code and~~ this Implementation Plan.

Bulk Merchandise (Land Use). See "Retail sales."

"Bulkhead" means vertical walls built into and along the harbor shoreline to prevent the erosion of land into the water and to protect the land from wave, tide and current action by the water, similar to a "retaining wall" on land. Bulkheads may be directly bordered by water, or may have sloped stones (riprap) or sand beach between the bulkhead and the water and land areas.

"Bulkhead line" means harbor land/water perimeter lines that are established in Newport Harbor by the Federal government and for the purpose of defining the permitted limit of filling or solid structures that may be constructed in the harbor.

"Business park" means a development that contains a number of separate office buildings, accessory and supporting uses, and open space, all designed, planned, constructed, and maintained on a integrated and coordinated basis.

C. "C" Definitions.

"Calendar day" means a 24-hour time period measured from midnight to midnight.

"California Environmental Quality Act (CEQA)" means a State law (California Public Resources Code Section 21000 et seq.).

"**Canopy"** means a roof-like cover, supported from the ground or from the floor or walls of a structure, for protection from the sun or weather. Does not include "Carport." See "Awning" and "Patio cover."

"Canyon" means a deep narrow valley with precipitous sides formed by the downward cutting of streams through resistant rock.

"Canyon Edge" means the upper termination of a canyon: In cases where the top edge of the canyon is rounded away from the face of the canyon as a result of erosional processes related to the presence of the canyon face, the canyon edge shall be defined as that point nearest the canyon beyond which the downward gradient of the surface increases more or less continuously until it reaches the general gradient of the canyon. In a case where there is a steplike feature at the top of the canyon face, the landward edge of the topmost riser shall be taken to be the canyon edge.

"Canyon Face" means the downward gradient of a canyon surface between the canyon edge and base.

"Caretaker residence (land use)" means a permanent residence on the site of a nonresidential use. The residence is secondary or accessory to the principal nonresidential use of the site and houses a caretaker employed for security purposes or to provide 24-hour care or monitoring of people, plants, animals, equipment, facilities, or other conditions on the site. Includes an official residence maintained by a place of worship as a benefit to the spiritual leader (e.g., imam, minister, monk, rabbi, etc.).

"Carport" means a structure or portion of a structure, open or enclosed by walls or doors on not more than three sides, that is designed and intended to shelter one or more parking spaces.

Carwash. See "Vehicle/Equipment Services (Land Use)."

Categorical Exemption. As defined by Section 15354 of the State CEQA Guidelines (Title 14, California Code of Regulations), an exemption from CEQA for a class of projects based on a finding by the Secretary of Resources that the class of projects does not have a significant effect on the environment.

"Categorical Exclusion Area" means that portion of the Coastal Zone within an exclusion area boundary adopted in compliance with the California Coastal Act (Public Resources Code Sections 30000 et seq.)~~ and depicted on the Permit and Appeal Jurisdiction Map. See "Permit Appeal and Jurisdiction Map~~."

"Categorical Exclusion Order" means decision issued by the California Coastal Commission in compliance with the Coastal Act (Public Resources Code Section 30610(e)), in which the Coastal Commission excludes certain categories of development from requirements to obtain coastal development permits from the Coastal Commission. A categorical exclusion order automatically terminates upon the effective date of the delegation of development review authority to a local government in compliance with California Code of Regulations Section 13249(b).

"Catering service (land use)" means an establishment that prepares and delivers food and beverages for off-site consumption, without facilities for on-site pick-up or consumption. See "Eating and drinking establishments."

"Change in the Intensity of Use of Land" means a change in the intensity of use of land which is ~~determined by the Director~~ likely to result in a ~~significant~~ new, decreased or increased impact due to a lesser or greater level of activity, population density, traffic generation, parking demand, dust, odor, noise, or similar impacts.

"Change of use" means a discontinuance of a use and the substitution of a different use.

"Channel" means a water area in Newport Harbor designated for vessel navigation with necessary width and depth requirements, and which may be marked or otherwise designated on Federal navigation charts, as well as in other sources.

"Charter Vessel" means a vessel used principally for charter purposes, a "charter" being a rental agreement, generally for a period of one day or more.

Child Day Care. See "Day care."

"City" means the City of Newport Beach.

"City Council" means the City of Newport Beach City Council.

"City Manager" means an individual designated by the City Council as City Manager, or a duly designated representative of the City Manager.

Coastal Bluff. See "Bluff, Coastal."

"Coastal access" means the ability of the public to pass from public rights-of-way to the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, coastal blufftops, and coastal recreation areas and trails.

"Coastal Act" means the California Coastal Act of 1976, as amended.

"Coastal Commission" means the California Coastal Commission, the State agency established by State law responsible for carrying out the provisions of the California Coastal Act of 1976, as amended (Public Resources Code Sections 30000 et seq.) and for appellate review of decisions rendered by a City review authority.

"Coastal Commission Permit Jurisdiction" means the boundaries of tidelands, submerged lands, and public trust lands described in Section 30519 (b) of the Public Resources Code where the Coastal Commission retains permit jurisdiction.

"Coastal Commission Exclusion Areas" means the boundaries of the areas where a category of development, or a category of development within a specifically defined geographic area, is excluded from the coastal development permit requirements pursuant to Public Resources Code Section 30610 shall be established by the terms and conditions applied to each categorical exclusion order by the Coastal Commission.

"Coastal Development Permit (CDP)" means a permit for any development within the Coastal Zone that is required pursuant to subdivision (a) of Public Resources Code Section 30600.

"Coastal Development Permit, Emergency" means an authorization by the Director to proceed with any development within the Coastal Zone which is remedial, immediate and temporary to respond to ~~an urgent and critical situation~~ a sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss or damage to life, health, property, or essential public services provided that later compliance with coastal development permit requirements is assured if the development is to be permanent.

"Coastal Land Use Plan (CLUP)" means the certified Land Use Plan (LUP) of the Local Coastal Program of the City of Newport Beach.

"Coastal Plan" means the California Coastal Zone Conservation Plan prepared and adopted by the California Coastal Zone Conservation Commission and submitted to the Governor and the Legislature on December 1, 1975, pursuant to the California Coastal Zone Conservation Act of 1972 (commencing with Section 27000).

"Coastal View or Viewshed" means a public view to, from or along the ocean, bay, harbor, coastal bluff, beach or other scenic coastal area.

"Coastal Zone" means the geographic zone adjacent to the shoreline, the land and water area boundaries of which are determined by the California Coastal Act of 1976, as amended (Public Resources Code Sections 30000 et seq.).

"Coastal-dependent Development or Use" means any development or use which requires a site on, or adjacent to, the sea to be able to function at all (from California Public Resources Code, Section 30101).

"Coastal-related Development or Use" means any development or use that is dependent on a coastal-dependent development or use (from California Public Resources Code, Section 30101.3).

"Commercial filming" means commercial motion picture or video photography at the same location more than six days per quarter of a calendar year.

“Commercial recreation and entertainment (land use)” means establishments providing participant or spectator recreation or entertainment, either indoors or outdoors, for a fee or admission charge. Does not include “Adult-oriented businesses” or “Bars, lounges, and nightclubs.” Illustrative examples of commercial recreation and entertainment uses include:

1. Arcades or electronic games centers having three or more coin-operated game machines.
2. Amusement parks.
3. Bowling alleys.
4. Billiard parlors.
5. Cinemas.
6. Golf courses.
7. Ice/roller skating rinks.
8. Internet cafes.
9. Miniature golf courses.
10. Pool rooms.
11. Scale-model courses.
12. Sports stadiums and arenas.
13. Tennis/racquetball courts.
14. Theaters.

“Commission” means the City of Newport Beach Planning Commission, referred to in this Implementation Plan as the “Commission.”

“Common interest development” means any of the following:

1. A community apartment project;
2. A condominium project;
3. A planned development; or
4. A stock cooperative.

Common Open Space. See “Open space.”

“Communication facility (land use)” means an establishment that provides commercial and public communications services (e.g., radio and television broadcasting and receiving stations and studios, etc.) with facilities contained entirely within structures. Does not include transmission and receiving apparatus, including antennas and towers (see “Wireless Telecommunications Facilities”).

“Compatibility” means the characteristics of different uses or activities that permit them to be located near each other in harmony and without conflict. Elements affecting compatibility include: intensity of occupancy, pedestrian or vehicular traffic generated, volume of goods handled, and environmental effects (e.g., air pollution, glare, hazardous materials, noise, vibration, etc.).

“Conditional use” means a use of land allowed in a particular coastal zoning district subject to the approval of a conditional use permit.

“Condominium” means a form of property ownership providing for individual ownership of space in a structure together with an individual interest in the land or other parts of the structure in

common with other owners. Includes a condominium project, community apartment project, or stock cooperative, as defined in California Civil Code Section 1351.

"**Condominium project"** means an entire lot proposed to be used or divided, as land or airspace, into two or more units as a condominium.

"Condominium unit" means the particular area of land or airspace that is designed, intended, or used for exclusive possession or control by individual owners or occupiers.

"Congregate care home (land use)" means age-segregated housing built specifically for the elderly that provides services to its residents, the minimum of which is usually an on-site meal program, but which may also include housekeeping, laundry, social activities, counseling, and transportation (sometimes referred to as "assisted living facilities"). Does not include "Convalescent facilities."

"Contour" means a line on a topographic map or bathymetric (depth) chart representing points of equal elevation with relation to a datum (point or set of points). Contour lines are usually spaced into intervals for easier comprehension and utilization.

"Contractor's storage yards (land use)" means indoor and/or outdoor storage facilities operated by, or on behalf of, a contractor licensed by the State of California (e.g., building contractors, landscape contractors, sign contractors, etc.) for storage of large equipment, vehicles, and/or other materials commonly used in the individual contractor's type of business; storage of scrap materials used for repair and maintenance of contractor's own equipment; and structures for related offices and repair activities.

"Convalescent facility (land use)" means an establishment that provides care on a twenty-four (24) hour basis for persons requiring regular medical attention (may also be referred to as a "nursing home" or "hospice"). Does not include facilities providing emergency medical services or surgical services ("Emergency health facilities," "Hospitals," or "Outpatient surgery facilities").

"Convenience market" means a retail establishment that sells prepackaged food items, beverages and small convenience items (e.g., periodicals, tobacco, miscellaneous household and pharmaceutical goods, etc.) primarily for off-site consumption; that typically has late hours of operation; and that is in a relatively small structure located along heavily traveled streets. This term excludes delicatessens and other specialty food shops and establishments that carry a sizeable assortment of fresh fruits, fresh vegetables, and fresh-cut meat or fish (see "Supermarket"). Includes an establishment located within or associated with another use (e.g., service stations).

"County" means the County of Orange in the State of California.

"Covered parking space" means a parking space that is within a carport.

"Cultural institution (land use)" means a public or private institution that displays or preserves objects of community or cultural interest in one or more of the arts or sciences. Illustrative examples of these uses include:

1. Libraries.

2. Museums.

“Cumulative effect” means the effect of an individual project in combination with the effects of past projects, other current projects, and probable future projects.

“Current” means a flow of water in a particular direction. Such flows can be driven by wind, temperature or density differences, tidal forces, and wave energy. Currents are often classified by location, such as longshore current, surface current, or deep ocean currents. Different currents can occur in the same general area, resulting in different water flows, for example, a rip current can flow perpendicular to the shore through the surf zone, a long shore current may flow southerly, parallel to the coast and a seasonal deep water current may flow to the north.

D. “D” Definitions.

“Day” means, unless otherwise specified, a calendar day. See “Calendar day.”

“Day care (land use)” means nonresidential, nonmedical care and supervision of fourteen (14) or fewer persons on a less than twenty-four (24) hour basis.

1. **Child Day Care.**

    a. “Child day care, small (eight or fewer children)” means day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for eight or fewer children. Children under the age of ten (10) years who reside in the dwelling count as children served by the day care facility.

    b. “Child day care, large (nine to fourteen (14) children)” means day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for nine to fourteen (14) children. Children under the age of ten (10) years who reside in the dwelling count as children served by the day care facility.

    c. Fifteen (15) or More Children. See “Day care, general” for facilities serving fifteen (15) or more children.

2. **Adult Day Care.**

    a. **“Adult day care, small (six or fewer adults)”** means day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for six or fewer adults.

    b. **“Adult day care, large (seven to fourteen (14) adults)”** means day care facilities located in single-unit dwellings where an occupant of the dwelling provides care and supervision for seven to fourteen (14) adults.

    c. **Fifteen (15) or More Adults.** See “Day care, general” for facilities serving fifteen (15) or more adults.

"Day care, general (land use)" means an establishment that provides nonmedical care for persons on less than a twenty-four (24) hour basis, including nursery schools, preschools, and day care centers for children or adults. General day care establishments may be accessory to an industrial, commercial, or institutional use.

"Deck" means a platform, either freestanding or attached to a structure that is supported by pillars or posts. See "Balcony."

"Decision" and "Determination" and mean that the review authority makes the final determination or decision on the matter.

"Dedication" means the conveyance by an owner or developer of private land for public use and the acceptance of land for public use by the governmental agency having jurisdiction over the public function for which it will be used.

"Dedication fee, in lieu of" means cash payments that may be required of an owner or developer as a substitute for a dedication of land, usually calculated in dollars per lot, and referred to as "in-lieu fees" or "in-lieu contributions."

"Deepwater areas" means those marine or estuarine areas below extreme low water of spring tides and include estuaries and open coastal waters. See also "Estuaries" and "Open Coastal Waters."

"Deferred Certification Area" means an area which has not been officially segmented for purposes of LCP preparation and where both the land use plan and implementation plan have been deferred to some future date in order to avoid delay in certifying the balance of the LCP. The Coastal Commission retains coastal development permit jurisdiction in deferred certification areas.

"Demolition" means the deliberate removal or destruction of the frame or foundation of a portion of a structure.

"Density" means the number of dwelling units per unit of land; usually density is expressed "units per acre," or "minimum land area per unit." Thus, the density of a development of one hundred (100) units occupying twenty (20) acres is five units per acre.

"Density bonus" means, as defined by Government Code Section 65915 et seq., an increase over the maximum density otherwise allowed by the applicable zoning district that is granted to the owner/developer of a housing project who agrees to construct a prescribed percentage of dwelling units that are affordable to very-low- and low-income households. See "Very low-income household" and "Low-income household."

Detached Structure. See "Structure, detached" and also "Detached single-unit dwelling."

Determination. See "Decision and determination."

"Development" means on land, in or under water, the placement or erection of solid material or a structure; discharge or disposal of dredged material or of gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of materials; change in the density or intensity

of use of land, including, but not limited to, subdivision in compliance with the Subdivision Map Act (commencing with Government Code Section 66410), and another division of land, including lot splits, except where the land division is brought about in connection with the purchase of the land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of a structure, including a facility of a private, public, or municipal utility; and the removal or harvesting of major vegetation other than for agricultural purposes and kelp harvesting.

~~**"Development permit"** means authority granted by the City to use or develop a specified site for a particular purpose, as established by Part 5 of this Implementation Plan (Planning Permit Procedures).~~

"Director" means the City of Newport Beach Community Development Director or a duly designated representative of the Director, referred to as the "Director."

"Disaster" means the occurrence or imminent threat of severe damage, injury, loss of life or property caused by a natural event, an act of public enemy, or accident. A disaster does not include structural damage due to corrosion, dry rot, termite infestation, deterioration due to age, or other structural damage due to ongoing exposure to natural elements that was foreseeable and preventable through reasonable due diligence.

"Discretionary decision" means a decision requiring the exercise of judgment, with or without deliberation, on the part of the decision-making authority in the process of approving or disapproving a particular activity, as distinguished from situations where the decision-making authority merely has to determine whether there has been conformity with fixed standards or objective measurements contained in applicable statutes, ordinances, or regulations. Examples of discretionary permits include minor use permits, conditional use permits, and limited term permits. See "Ministerial decision."

"Disturbed" means a term used to identify a biological habitat that has been altered by natural or man-made events.

"Dock" means a structure generally linked to the shoreline to which a vessel may be secured. A dock may be fixed to the shore or fixed on pilings, or may float in the water.

"Dormer" means an extension projecting from the slope of a roof usually provided with its own roof and housing a window or series of windows. A dormer is located below the highest point of a roof. Examples of typical dormers include eyelid or eyebrow dormers (i.e., with an arched roof that gives it the appearance of an eyelid); gable dormers (i.e., with a gable roof); and shed dormers (i.e., with a shed roof).

"Dory Fishing Fleet" means the historic fleet and open-air fish market that has operated adjacent to Newport Pier since its founding by a Portuguese fisherman in 1891.

"Drive-through facility (land use)" means establishments that provide services accessible to persons who remain in their motor vehicles.

“Driveway” means a designated passageway providing vehicular access between a street and a garage or carport, a designated parking area, or other driveway or street. A driveway shall not be considered a street.

“Drought-tolerant” means able to remain viable during a prolonged period with less than average precipitation.

“Dry (Boat) Storage” means all on-land storage of vessels, including vessels normally stored in open or enclosed rack structures, on trailers, on cradles, on boat stands, or by other means.

“Dune” means ridges or mounds of loose, wind-blown material usually sand. A dune structure often has a back and foredune area. Stable dunes are often colonized by vegetation.

Duplex. See “Dwelling, two-unit.”

“Dwelling, multi-unit (land use)” means a structure or development containing three or more dwelling units, each of which is for occupancy by one or more persons living as a single housekeeping unit (see “Single housekeeping unit”). Includes: triplexes (structures under one ownership with three dwelling units in the same structure), fourplexes (structures under one ownership with four dwelling units in the same structure) and apartments (five or more units under one ownership in a single structure or complex) (see “Apartment”); and common ownership, attached unit projects including condominiums (see “Condominium”). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems. Does not include duplexes (see “Dwelling, two-unit”).

“Dwelling, single-unit (land use)” means a structure containing one dwelling unit located on a single lot for occupancy by one single housekeeping unit (see “Single housekeeping unit”). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems.

1. “Attached single-unit dwelling” means a dwelling that is attached to another dwelling, excluding accessory dwellings. Each dwelling is owned in fee, located on an individual lot, and is joined to another dwelling along a single lot line. Each dwelling is totally separated from the other by an unpierced wall extending from ground to roof.

2. “Detached single-unit dwelling” means a dwelling that is not attached to another dwelling, excluding an accessory dwelling unit (see “Accessory dwelling unit”). The dwelling is owned in fee and is located on an individual lot.

“Dwelling, two-unit (land use)” means a structure(s) located on a single lot and containing two dwelling units, each of which is for occupancy by one single housekeeping unit (see “Single housekeeping unit”). Also includes factory-built, modular housing units, constructed in compliance with the California Building Code (CBC), and mobile homes/manufactured housing units that comply with the National Manufactured Housing Construction and Safety Standards Act of 1974, when placed on permanent foundation systems.

"Dwelling unit" means an area within a structure on a lot that:

1. Contains separate or independent living facilities for one or more persons, with area or equipment for sleeping, sanitation and food preparation, and that has independent exterior access to ground level; or

2. Is being utilized for residential purposes by one or more persons separately or independently from occupants of other areas within the structure.

"Facilities for food preparation" means a room or part of a room used, intended, or designed to be used for cooking or the preparation of food. The presence of a range or oven, or utility connections suitable for servicing a range or oven, shall be considered as establishing a kitchen. The meaning of "kitchen" shall exclude a bar or butler's pantry.

"Independent access" means an arrangement of dwelling units so that each dwelling unit has an entrance directly into the unit that is separate from the entrance into another unit.

"Dwelling unit, senior accessory (land use)" means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site zoned for a single-family dwelling. The unit is intended for the sole occupancy of one or two adult persons who are fifty-five (55) years of age or older. The floor area of the unit does not exceed six hundred forty (640) square feet.

E. "E" Definitions.

"Easement" means a grant of one or more property rights by the property owner for use by the public or another person or entity. Examples include right-of-way easements, utility easements, or view easements. Typically easements are recorded against real property by an instrument or subdivision map. See "Right-of-way."

Eating and Drinking Establishments (Land Use). See also "Alcohol sales, on-sale" and "Drive-through facilities."

1. **"Accessory food service"** means a type of food service establishment that:

    a. Sells food and/or beverages as an accessory use in a retail, office, or institutional structure;

    b. Does not change the character of the principal use;

    c. Does not sell, serve, or give away alcoholic beverages;

    d. Does not have an entrance separate from the principal use; and

    e. Has hours of operation that are the same as those of the principal use.

2. **"Bar, lounge, and nightclub"** means an establishment that sells or serves alcoholic beverages for consumption on the premises and is holding or applying for a public

premises license from the California State Department of Alcoholic Beverage Control (ABC) (i.e., ABC License Type 42 (On-Sale Beer and Wine—Public Premises), ABC License Type 48 (On-Sale General—Public Premises), and ABC License Type 61 (On-Sale Beer—Public Premises)). Persons under twenty-one (21) years of age are not allowed to enter and remain on the premises. The establishment shall include any immediately adjacent area that is owned, leased, rented, or controlled by the licensee.

3. **"Fast food"** means an establishment whose design or principal method of operation includes four or more of the following characteristics:

   a. A permanent menu board is provided from which to select and order food;
   b. A chain or franchise restaurant;
   c. Customers pay for food before consuming it;
   d. A self-service condiment bar and/or drink service is/are provided;
   e. Trash receptacles are provided for self-service bussing; and
   f. Furnishing plan indicates stationary seating arrangements.

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

4. **"Food service, no late hours"** means an establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and that has all of the following characteristics:

   a. Establishment does not have late hour operations (see "Late hour operations");

   b. Customers order food and beverages from individual menus;

   c. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

   d. Customers pay for food and beverages after service and/or consumption.

5. "**Food service, late hours"** means an establishment that sells food and beverages, including alcoholic beverages, prepared for primarily on-site consumption, and that has all of the following characteristics:

   a. Establishment does have late hour operations (see "Late hour operations");

   b. Customers order food and beverages from individual menus;

   c. Food and beverages are served to the customer at a fixed location (i.e., booth, counter, or table); and

   d. Customers pay for food and beverages after service and/or consumption.

6. **"Late hour operations"** means facilities that provide service after 11:00 p.m.

7. **"Outdoor dining, accessory"** means an outdoor dining area contiguous and accessory to a food service establishment.

8. **"Take-out service, limited"** means an establishment that sells food or beverages and that has all of the following characteristics:

    a. Sales are primarily for off-site consumption;

    b. Customers order and pay for food at either a counter or service window;

    c. Incidental seating up to six seats may be provided for on-site consumption of food or beverages; and

    d. Alcoholic beverages are not sold, served, or given away on the premises.

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

9. **"Take-out service only"** means an establishment that offers a limited variety of food or beverages and that has all of following characteristics:

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

"Economic life" means the period of time during which a structure may reasonably be expected to perform the function for which it was designed or intended. For the purposes of this Implementation Plan, the economic life of a structure shall be seventy-five (75) years.

"Eelgrass" means a marine flowering plant (*Zostera marina*) that is found primarily in coastal bays and estuaries on soft substrate.

"Emergency" means any sudden, unexpected occurrence demanding immediate action to prevent or mitigate loss of or damage to life, health, property or essential public services as used in Public Resources Code Section 30624.

"Emergency health facility (land use)" means establishments that provide emergency medical service (i.e., outside normal physician office hours or before a physician appointment is available) with no provision for overnight or continuing care on an inpatient basis. Also includes urgent care facilities and walk-in clinics. Does not include hospitals (see "Hospitals").

"Emergency shelter (land use)" means, as defined in Health and Safety Code Section 50801(e), a facility with minimal supportive services for homeless persons.

"Emergency work" means work performed for the purpose of preventing or alleviating the physical trauma or property damage threatened or caused by a natural or manmade disaster.

“Encroachment” means an intrusion of development on public property, on environmentally sensitive lands, or into required setback areas.

“Energy Facility” means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal, or other source of energy.

“Enlargement of use” means the expansion of a land use activity on a site or within a structure so that the use/activity occupies more floor or site area than before the expansion.

Entertainment and Excursion Vessel. See “Marine services.”

“Entertainment, commercial” means an establishment (indoors or outdoors) where entertainment is provided for a fee for the pleasure of the patrons, either independent of or in conjunction with another use.

“Environment” means the physical conditions which exist within the area which may be affected by a proposed project, including land, air, water, mineral, flora, fauna, noise, and objects of historic or aesthetic significance.”

“Environmental assessment” means a detailed statement that identifies the environmental effects and considerations pertaining to a project as specified in the California Environmental Quality Act, and may mean either a draft or a final EIR, or an initial study leading to a negative declaration.

“Environmental Impact Report (EIR)” means an informational document used to assess the physical characteristics of an area and to determine what effects will result if the area is altered by a proposed action, prepared in compliance with the California Environmental Quality Act (CEQA). “Establishment” means a business.

“Environmentally Sensitive Habitat Area (ESHA)” as defined in Public Resources Code Section 30107.5, means an area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments.

~~**“Erode”** means the gradual wearing away and removal of land surface by various agents such as waves; opposite of accrete.~~

“Erosion” means ~~the wearing away of land~~ by loosening and transportation of rock and soil debris by wind, rain, or running water. The gradual wearing away of the upper layers of earth natural forces. On a beach, the carrying away of beach material by wave action, currents or the wind.

ESHA. See “Environmentally Sensitive Habitat Area.”

“**ESHA Buffer”** means open space that horizontally separates and protects environmentally sensitive habitat areas from development areas. Buffer areas should be contiguous with the

sensitive habitat but are not in themselves a part of the environmentally sensitive habitat area to be protected.

"Estuary" means the region near a river mouth in which the fresh water of the river mixes with the salt water of the sea. See also "Deepwater Areas."

"Estimated Applied Water Use (EAWU)" for purposes of Section 21.30.085 (Water Efficient Landscaping) means the average annual total amount of water estimated to be necessary to keep plants in a healthy state, calculated as provided in the design standards. It is based on the reference evapotranspiration rate, the size of the landscape area, plant water use factors, and the relative irrigation efficiency of the irrigation system.

"Evaluation" means the process by which a project's performance is determined relative to criteria developed for this purpose.

"Evapotranspiration Adjustment Factor" or "ETAF" for purposes of Section 21.30.085 (Water Efficient Landscaping) is equal to the plant factor divided by the irrigation efficiency factor for a landscape project, as described in the Design Standards for Implementation of the Water Efficient Landscape Ordinance. The ETAF is calculated in the context of local reference evapotranspiration, using site-specific plant factors and irrigation efficiency factors that influence the amount of water that needs to be applied to the specific landscaped area.

"Exaction" means a contribution or payment required as an authorized precondition for receiving a permit for development.

"Explosives" means a substance defined as an explosive by Health and Safety Code Section 12000 et seq., and for which a permit is required by the Health and Safety Code. See also "Hazardous materials."

F. "F" Definitions.

"Factor of Safety" means the ratio of the ultimate breaking strength of the material to the force exerted against it. In terms of slope stability analysis, the factor of safety is determined by dividing the resisting forces by the driving force. The forces resisting a potential landslide are essentially the strength of the rocks or soils making up the bluff. The forces driving a potential landslide are the weight of the rocks as projected along a potential slide surface.

"Fair housing laws" means the Federal Fair Housing Act, the Americans with Disabilities Act, and California's Fair Employment and Housing Act, as each Act may be amended from time to time, and each Act's implementing regulations.

"Family" means one or more persons living together as a single housekeeping unit in a dwelling unit. See "Single housekeeping unit."

Fast Food. See "Eating and drinking establishments."

"Fault" means a rock fracture accompanied by displacement.

"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors.

"Fen" means a unique type of wetland characterized by a saturated substrate dominated by organic material in which acidic conditions (pH < 7) prevail. Contrast with a bog, which has a saturated substrate dominated by organic material in which basic conditions (pH > 7) prevail.

"Fence" means a structure, solid or otherwise, that is a barrier and used as a boundary or means of protection, confinement, or concealment. Does not include hedges, shrubs, trees, or other natural growth.

"Fill" means material (e.g., earth, clay, sand, concrete, rubble, metal, wood chips, bark, waste, etc.), including pilings placed for the purpose of erecting structures, that is placed, stored, or dumped or in a submerged area or upon the surface of the ground resulting in an increase in the natural surface elevation.

"Final map" means a subdivision map prepared in compliance with Subdivision Map Act, Article 2, Chapter 2, and approved in compliance with Subdivision Map Act, Article 4, Chapter 3 (Government Code Section 66410 et seq.), that is used to complete the subdivision of five or more lots. See also "Parcel map" and "Tentative map."

"Financial institutions and related services (land use)" means establishments that solicit, receive, or accept money or its equivalent on deposit and loan money as a regular business. Typical examples include Federal- or State-regulated banks, savings and loan associations, savings banks, credit unions, and lending establishments, with automatic teller machines (ATMs) as an accessory use. Does not include mortgage broker, accounting, financial investment, or similar offices ("Office, business," "Office, corporate," or "Office, professional").

"Finding(s)" means the result(s) of an investigation and the basis upon which decisions are made. Findings are used by government agents and bodies to justify action taken by the entity.

"Finished floor/surface" means the surface of a floor after the final installation or application of floor coverings or other surfacing materials.

Finished Grade. See "Grade, finished."

"First Public Road Paralleling the Sea" means the road nearest the sea and which meets all of the following criteria:

1. The road is lawfully open and suitable for uninterrupted use by the public;

2. The road is maintained by a public agency;

3. The road contains an improved all-weather surface open to motor vehicle traffic in at least one direction;

4. The road is not subject to any restrictions on use by the public except during an emergency or for military purposes; and

5. The road connects with other public roads providing a continuous access system and generally parallels and follows the shoreline of the sea so as to include all portions of the sea where the physical features such as bays, lagoons, estuaries and wetlands cause the waters of the sea to extend landward of the generally continuous coastline.

"Floating Dry Dock" means a submersible, floating structure used as a dry dock, having a floor that is submerged, slipped under a floating vessel, and then raised so as to raise the vessel entirely out of the water.

Flood, 100-Year. See "Storm event, 100-year."

"Floodplain" means the relatively level land area on either side of the banks of a stream regularly subject to flooding. That part of the floodplain subject to a one percent chance of flooding in any given year is designated as an "area of special flood hazard" by the Federal Insurance Administration.

Floor Area, Gross.

1. **Single-Unit and Two-Unit Dwellings.**

   a. For single-unit and two-unit dwellings, the following areas shall be included in calculations of gross floor area:

      i. The surrounding exterior walls; and

      ii. Any interior finished portion of a structure that is accessible and that measures more than six feet from finished floor to ceiling.

   b. The following areas shall be excluded:

      i. Stairwells and elevator shafts above the first level.

2. **Multi-Unit Residential, Mixed-Use, and Nonresidential Structures.**

   a. For multi-unit residential, mixed-use, and nonresidential structures, the following areas shall be included in calculations of gross floor area:

      i. The surrounding exterior walls; and

      ii. Any interior finished portion of a structure that is accessible and that measures more than four feet from finished floor to ceiling.

   b. The following areas shall be excluded:

      i. Stairwells and elevator shafts above the first level;

      ii. Outdoor dining areas associated with an eating and drinking establishment, and

iii. Parking structures associated with an allowed use within the same development.

"Floor area limit" means the allowed gross floor area for a residential lot determined by multiplying the allowed buildable area of the lot times the applicable multiplier for the lot as provided in Chapter 21.18 (Residential Zoning Districts) and Tables 2-2 and 2-3.

"Floor area, net" means the area included within the surrounding walls of a building, exclusive of vent shafts, elevator shafts, stairways, exterior corridors or balconies, rooms containing only mechanical and electrical equipment used for service of the building, utility shafts, and parking structures.

"Floor area ratio (FAR)" means the gross floor area allowed on a site divided by the total gross area of the site, expressed in decimals. For example, on a site with ten thousand (10,000) gross square feet of land area, a floor area ratio of 1.0 will allow a maximum of ten thousand (10,000) gross square feet of building floor area to be built. On the same site, an FAR of 1.5 would allow fifteen thousand (15,000) gross square feet of floor area and an FAR of 0.5 would allow five thousand (5,000) gross square feet.

"Food processing (land use)" means establishments engaged in the manufacturing or processing of food or beverages for wholesale distribution.

Food Service. See "Eating and drinking establishments."

Fourplex. See "Dwelling, multi-unit."

Frontage. See "Lot frontage."

"Fuel modification zone" means a strip of land where combustible native or ornamental vegetation must be modified and partially or totally replaced with drought-tolerant, fire-retardant plants.

"Functional Capacity" in terms of wetlands and estuaries, means the ability of the wetland or estuary to be self-sustaining and to maintain natural species diversity.

"Funeral homes and mortuaries (land use)" means establishments engaged in the provision of service involving the care, preparation, or disposition of human dead other than in cemeteries. May or may not include crematories and/or mortuaries. No interment is provided on site. May include areas for assembly services and living quarters for funeral home/mortuary manager (see "Caretaker residence").

G. "G" Definitions.

"Garage" means a structure or portion of a structure, completely enclosed by walls or doors on all sides, that is designed or used to shelter one or more parking spaces. Does not include a carport (see "Carport").

Garage, Public. See "Parking facility."

Garage Sale. See “Personal property sales.”

Garage, Storage. See “Vehicle/equipment services.”

“Gazebo” means a detached, covered, freestanding, open-air structure designed for recreational use only and not for habitation. See “Accessory structure.”

“General Plan” means the City of Newport Beach General Plan, and all amendments thereto, as adopted by the City Council under the provisions of Government Code Section 65300 et seq., and referred to in this Implementation Plan as the “General Plan.”

“Governmental facility (land use)” means a structure owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public (e.g., City Hall, community recreation center, post office, library, etc.).

“Grade, existing” means the surface of the ground or pavement at a stated location as it exists prior to disturbance in preparation for a project.

“Grade, finished” means the surface of the ground at a stated location as it exists after completion of a project.

“Grade, natural” means the unaltered natural surface of the ground at a stated location.

Granny Unit. See “Accessory dwelling unit.”

Greenhouse Window. See “Bay window.”

“Groin” means a shoreline protection structure built, usually perpendicular to the shoreline, to trap nearshore sediment or retard erosion of the shore. A series of groins acting together to protect a section of beach is known as a groin system or groin field.

Gross Floor Area. See “Floor area, gross.”

“Ground floor” means the first floor of a structure that is at ground level or street level. Does not include a “Basement.”

“Groundwater” means subsurface water occupying the zone of saturation usually found in porous rock strata and soils.

“Group residential” means shared living quarters, occupied by two or more persons not living together as a single housekeeping unit (“Single housekeeping unit”). Includes, without limitation, boarding or rooming houses (see “Boarding or rooming house”), dormitories, fraternities, sororities, parolee-probationer homes (see “Parolee-probationer home”), and private residential clubs. Excludes residential care facilities (see “Residential care facilities”).

H. "H" Definitions.

"Habitable floor area" means an area that meets the requirements of the California Building Code (CBC) for sleeping, living, cooking, or dining purposes, excluding enclosed places (e.g., closets, bath or toilet rooms, hallways, laundries, pantries, storage spaces, utility rooms, etc.).

"Habitat" means the locality, including the physical and biological environment, in which a plant or animal lives.

"Handicraft industry (land use)" means establishments engaged in on-site production of goods by hand involving the use of hand tools and small-scale equipment (e.g., drills and saws, hammers and chisels; paint brushes and sprayers; pottery wheels and kilns; sewing machines; spinning wheels, etc.) and the incidental direct sale to consumers of only those goods produced on site. Illustrative examples of these products include:

1. Candles.
2. Ceramics.
3. Costume novelties.
4. Jewelry.
5. Mosaics.
6. Musical instruments.
7. Needlework.
8. Pottery.
9. Quilting.
10. Small glass, metal art, and craft products.
11. Sporting and athletic goods.
12. Stained glass.
13. Toys.
14. Wood carving.

Harbor. See "Newport Bay."

"Harbor Lines" means all established Bulkhead, Pierhead, and Project Lines as defined within Newport Harbor by the federal, state, county and city governments.

"Harbor Resources Manager" means the City of Newport Beach Harbor Resources Manager or a duly designated representative of the Harbor Resources Manager.

"Hazardous materials" means an injurious substance, including, but not limited to, pesticides, herbicides, toxic metals and chemicals, liquefied natural gas, explosives, volatile chemicals, nuclear fuels, and substances on the comprehensive master list of hazardous substances compiled and maintained by the California Department of Health Services. See also "Explosives."

Health/Fitness Club (Land Use).

1. **Small.** An indoor facility of two thousand (2,000) square feet or less in size where passive or active exercises and related activities are performed using minimal muscle-building equipment or apparatus for the purpose of physical fitness, improved circulation or

flexibility, and/or weight control. Examples of uses include Pilates, personal training, and yoga studios.

2. **Large.** A full service fitness center, gymnasium, or health and athletic club that is over two thousand (2,000) square feet in size and may include the following: aerobic classes and other indoor sports activities; indoor handball, racquetball, or tennis courts; locker rooms and showers; sauna, spa, or hot tub facilities; swimming pools, weight rooms; etc.

~~**"Hearing Officer"** means a person designated to conduct hearings as provided in Chapter 21.60 (Administrative Responsibility), referred to as the "Hearing Officer."~~

"Hedge" means a group of shrubs or trees planted in a line or in groups forming a compact, dense barrier that protects, shields, separates, or demarcates an area from view. For purposes of this definition, a shrub is a perennial woody plant smaller than a tree, having multiple permanent stems branching from or near the base and lacking a single trunk; a bush. See "Fence."

"Height" means a vertical dimension established and measured in compliance with Section 21.30.060 (Height Limits and Exceptions).

Heliport and Helistop (Land Use).

1. **"Heliport"** means an area used for the landing, parking, or takeoff of helicopters including operations facilities (e.g., fueling, loading and unloading, maintenance, storage, terminal facilities, etc.).

2. **"Helistop"** means a single pad used for the landing, parking, or takeoff of one helicopter and other facilities as may be required by Federal and State regulations, but not including operations facilities (e.g., fueling, loading and unloading, maintenance, storage, terminal facilities, etc.).

"Historic Resource" means any object, building, structure, site, area, place, record, or manuscript which is historically or archeologically significant, or which is significant in the architectural, engineering, scientific, economic, agriculture, educational, social, political, military, or cultural history of the City of Newport Beach and/or California and/or the United States.

"Home occupation (land use)" means the conduct of a business within a dwelling unit or residential site occupied by a single housekeeping unit, with the business activity being incidental and clearly accessory to the principal residential use of the property. Does not include "Residential care facilities.".

"Homeowner Installed Landscape" for purposes of Section 21.30.080 (Water Efficient Landscaping) means any landscaping either installed by a private individual for a single-family residence or installed by a licensed contractor hired by a homeowner. A homeowner, for purposes of Section 21.30.085, is a person who occupies the dwelling he or she owns. This definition excludes speculative homes, which are not owner-occupied dwellings and which are subject under Section 21.30.085 to the requirements applicable to developer-installed residential landscape projects.

"Hospital (land use)" means an establishment that provides medical, surgical, psychiatric, or emergency medical services to sick or injured persons, on an inpatient or outpatient basis. Includes facilities for training, research, and administrative services for patients and employees. May include accessory pharmacy uses and food service uses. Does not include walk-in clinics ("Emergency health facilities").

Hostel. See "Visitor accommodations."

Hotel. See "Visitor accommodations."

"Hydric Soil" means a type of soil with characteristics resulting from prolonged saturation and chemically reducing conditions such as occurs under anaerobic conditions.

"Hydrology" means the dynamic processes of the water within an environment including the sources, timing, amount, and direction of water movement.

Hydrophytes. (See hydrophytic vegetation).

"Hydrophytic Vegetation" means plants that have adapted to living in aquatic environments. These plants are also called hydrophytes. In wetlands, hydrophytic species occur where at least the root zone of the plant is seasonally or continually found in saturated or submerged soil.

I. "I" Definitions.

"Impervious surface" means any surface or material that prevents, impedes, or slows infiltration or absorption of water directly into the ground, including buildings, asphalt, concrete, and other surfaces that do not readily absorb water.

"In Situ" archaeologically, means an artifact or object being found in its natural or original~~, undisturbed~~ position or place.

In-Kind Mitigation. See "Mitigation, In-Kind."

"Individual with a disability" means, as more specifically defined under the Fair Housing Laws (see

"Industry (land use)" means establishments engaged in the manufacturing of finished parts or products, either from raw materials or previously prepared materials, within an enclosed structure. Includes processing, fabrication, assembly, treatment, testing (e.g., laboratories), packaging, incidental office storage, sales, and distribution of the parts or products; and laundry and dry cleaning plants. Excludes vehicle/equipment rentals ("Vehicle/equipment rentals"), vehicle/equipment repair ("Vehicle/equipment repair"), vehicle/equipment sales ("Vehicle/equipment sales"), and vehicle/equipment services ("Vehicle/equipment services").

1. **Small.** Establishments located in facilities that are five thousand (5,000) square feet or less in size.

2. **Large.** Establishments located in facilities that are over five thousand (5,000) square feet in size.

3. **Marine-Related.** Establishments primarily engaged in the manufacture of marine-related parts or products. Does not include “Boat yards” (see “Marine services”).

“Integral facilities (land use)” means any combination of two or more residential care (small licensed, small unlicensed, or general) facilities that may or may not be located on the same or contiguous lots, that are under the control and management of the same owner, operator, management company or licensee or any affiliate of any of them, and are integrated components of one operation shall be considered one facility for purposes of applying Federal, State, and local laws to its operation. Examples of integral facilities include, but are not limited to, the provision of housing in one facility and recovery programming, treatment, meals, or any other service or services to program participants in another facility or facilities or by assigning staff or a consultant or consultants to provide services to the same program participants in more than one licensed or unlicensed facility.

“Integral uses (land use)” means any two or more licensed or unlicensed residential care programs commonly administered by the same owner, operator, management company or licensee, or any affiliate of any of them, in a manner in which participants in two or more care programs participate simultaneously in any care or recovery activity or activities so commonly administered. Any such integral use shall be considered one use for purposes of applying Federal, State, and local laws to its operation.

“Intensity” means a relative measure of development impact as defined by physical and operational characteristics (e.g., number of dwelling units per acre, amount of parking required, amount of traffic generated, etc.).

“Intertidal” means located between the low and high tide tidal extremes.

Invasive. See “Noninvasive plant.”

J. “J” Definitions.

“Jurisdiction” means the limits or territory within which a particular power may be exercised.

K. “K” Definitions.

Kennel and Animal Boarding. See “Animal sales and services.”

L. “L” Definitions

“Laboratory (land use)” means an establishment that provides medical or dental laboratory services or photographic or analytical services. Other laboratories are classified under “Industry.”

“Lagoon” means shallow body of water, such as a pond or lake, usually located near or connected to the sea.

“Land Use Plan (LUP)” for LCP purposes, means the relevant portions of a local government's general plan, or local coastal element which are sufficiently detailed to indicate the kinds, location, and intensity of land uses, the applicable resource protection and development policies and, where necessary, a listing of implementing actions.

“Landmark structure” means a structure constructed before December 12, 1950, and listed on the National Register of Historic Places.

“Landmark theater” means a structure constructed for use as a cinema or theater that has the following characteristics:

1. Constructed on or before December 12, 1950;
2. Contains a single screen or stage;
3. Designed to seat more than three hundred (300) people.

“Landscaping” means an area devoted to or developed and maintained with native or exotic plantings, lawn, groundcover, gardens, trees, shrubs, and other plant materials, and associated decorative outdoor landscape elements.

“Landscape Rehabilitation Project” for purposes of Section 21.30.085 (Water Efficient Landscaping) means any re-landscaping project involving fifty (50) percent or more of the total landscaped area within a one-year period.

“Landscaped Area” for purposes of Section 21.30.085 (Water Efficient Landscaping) means all the planting areas, turf areas, and water features (including pools, ponds, fountains, and any other water feature) in a landscape design plan which are subject to and must be included in the maximum applied water allowance and estimated applied water use calculations. The landscaped area does not include footprints of buildings or structures, sidewalks, driveways, parking lots, decks, patios, gravel or stone walks, other pervious or nonpervious hardscapes, and other non-irrigated areas designated for nondevelopment (e.g., open spaces and existing native vegetation).

LCP. “See Local Coastal Program.”

“Limited-Use Overnight Visitor Accommodations (LUOVA)” means a development in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of an ownership interest in a lot, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to, time share estate, interval ownership, fractional ownership, vacation license, vacation lease, club membership, time share use, hotel/condominium, or uses of a similar nature.

“Live entertainment” means entertainment provided by one or more live performers, including musical, theatrical, dance, cabaret, or comedy acts. For purposes of this definition, a disc jockey or a person whose performance consists of selecting or manipulating prerecorded music is considered a performer. Does not include “Adult-oriented businesses.” Does not include live, unamplified musical accompaniment to dining in a restaurant by no more than two performers, including patrons, without dancing.

1. "Amplified" means the increase in the degree of sound level of voices or instruments through electronic devices and equipment (e.g., amplifiers, loudspeakers, microphones, etc.).

2. "Unamplified" means voices or instruments without sound boosting electronic devices and equipment.

"Live-work unit (land use)" means a structure or spaces within structures that are used jointly for commercial and residential purposes.

"Local Coastal Program (LCP)" means the documents that comprise the certified City of Newport Beach Local Coastal Program, in compliance with the Coastal Act.

"Longshore" means parallel to and near the shoreline.

"Longshore Current" means the flow of water in the breaker zone, moving essentially parallel to the shore, usually generated by waves breaking at an angle to the shoreline.

"Lot" means the basic unit of land development. A designated area of land established by plat, subdivision, lot line adjustment, or as otherwise permitted by law, to be used, developed, or built upon as a unit. Typically a lot is indicated upon a final map, parcel map, lot line adjustment map, certificate of compliance, or record of merger filed in the Office of the County Recorder. Types of lots include the following. See Figure 7-1 (Lot Types).

1. **"Corner lot"** means a lot located at the intersection of two or more streets, where they intersect at an interior angle of not more than one hundred thirty-five (135) degrees. If the intersection angle is more than one hundred thirty-five (135) degrees, the lot is considered an interior lot. The front lot line of a corner lot abuts the shortest street property line, unless otherwise determined by the Director.

2. "**Flag lot"** means a lot not meeting minimum lot frontage requirements and where access to the private or public street is provided by a narrow private access way that is between abutting lots and that is owned in fee.

3. **"Interior lot"** means a lot abutting only one street.

4. **"Key lot"** means an interior lot, the front of which abuts the side property line of a corner lot.

5. **"Reversed corner lot"** means a corner lot, the rear of which abuts the side of another lot.

6. **"Through lot"** means a lot with frontage on two generally parallel streets. May be an interior lot having frontage on more than one street or a corner lot having frontage on more than two streets.

7. **"Waterfront lot"** means a lot with one or more lot lines ~~abutting~~ adjacent to the waterfront of Newport Bay, the Pacific Ocean, the Old Channel of the Santa River (the Oxbow Loop), or the channels in West Newport.

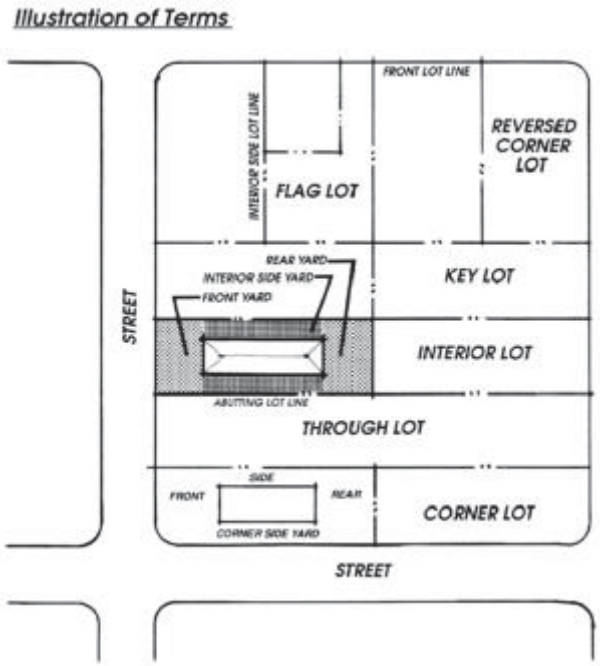


Figure 7-1—Lot Types

"Lot area" means the total area within the exterior lines of a lot including public access corridors, vehicular easements, and areas to be included in future street rights-of-way or other public facilities or uses established by easement, dedication, or ordinance.

"Lot depth" means the horizontal distance from the midpoint of the front lot line to the midpoint of the rear lot line; or, for irregularly shaped lots where the side lot lines converge to a point at the rear of the lot, the horizontal distance from the midpoint of the front lot line to a line ten (10) feet long within the lot, parallel to and at a maximum distance from the front lot line.

"Lot frontage" means the property line of a lot that abuts a street right-of-way.

"Lot line" means a recorded boundary of a lot. Types of lot lines include the following:

1. **"Front Lot Line"** means, on an interior lot, a lot line separating the lot from the street or the waterfront, if there is no street. For corner lots, the shortest side fronting upon a street is considered the front of the lot regardless of which street is used for vehicle or pedestrian access, or street address. Where two lot lines abutting a street are substantially the same length, the Director shall determine the location of the front lot line.

2. **"Interior lot line"** means a lot line not abutting a street or alley.

3. **"Rear lot line"** means a lot line, not a front lot line, that is parallel or approximately parallel to the front lot line and that does not intersect the front lot line. For irregularly shaped lots where the side lot lines converge to a point at the rear of the lot, the rear lot line is a line ten (10) feet long within the lot, parallel to and at a maximum distance from the front lot line.

4. **"Side lot line"** means a lot line that is not a front or rear lot line.

"Lot line adjustment" means, as provided in the Subdivision Map Act (Government Code Section 66412(d)), a lot line adjustment relocates one or more lot lines between two or more existing adjacent lots, where land taken from one lot is added to an adjacent lot and where no more lots are created than originally existed.

"Lot width" means the horizontal distance between the side lot lines, measured at right angles to the line that defines the lot depth at a point midway between the front and rear lot lines.

Lounge. See "Eating and drinking establishments."

"Low-income household" means a household whose income is between fifty (50) percent and eighty (80) percent of the Orange County median income ("Area median income"), adjusted for actual household size, as determined by the California Department of Housing and Community Development.

LUOVA. See "Limited-Use Overnight Visitor Accommodations."

LUP. See "Land Use Plan."

M. "M" Definitions.

"Maintenance and repair services (land use)" means establishments that provide home appliance and/or electronic or office equipment repair and maintenance, or building maintenance services. Does not include maintenance and repair of vehicles (see "Vehicle/equipment repair") or boats, ships, or vessels (see "Marine sales and services").

"Major Energy Facility" means any public or private processing, producing, generating, storing, transmitting, or recovering facility for electricity, natural gas, petroleum, coal or other source of energy which exceeds one hundred thousand dollars in its estimated cost of construction with an automatic increase in accordance with the Engineering News Record Construction Cost Index, except for those governed by the provisions of California Public Resources Code Sections 30610, 30610.5, 30611 or 30624.

"Marina (land use)" means a commercial berthing facility (other than moorings or anchorage) in which five or more vessels are continuously wet-stored (in water) and/or dry-stored (on land/racks) for more than thirty (30) days.. See "Marina support facilities."

"Marina support facilities (land use)" means an on-shore facility (e.g., administrative offices, bathrooms, laundry facilities, storage lockers, picnic areas, snack bar, etc.) that directly supports a marina.

"Marine and wildlife preserve (land use)" means an area of land or water, essentially unimproved, that is set aside, dedicated, designated, or reserved for protection from an activity that would significantly alter the open space or passive recreational value or ecological integrity, balance, or character. Includes wetlands, vernal pools, floodplains, riparian forests, riparian corridors, and habitat for multiple species of wildlife; preserves, and lands that are in need of being preserved for their habitat and/or open space values. Does not include parks, playgrounds,

and athletic fields for active recreational uses ("Parks and playgrounds"), or the same facilities that are privately owned, or commercial facilities ("Commercial recreation and entertainment").

"Marine rentals and sales (land use)" means establishments engaged in renting, selling or providing supplies and equipment for commercial fishing, pleasure boating, or related activities.

1. **"Boat rentals and sales"** means an establishment that rents or sells vessels, including storage and incidental maintenance. See "Vessel." Does not include "Marine services."

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

Marine Services (Land Use).

1. **"Boat storage"** means storage of operative or inoperative boats or ships.

2. **"Boat yard"** means construction, maintenance, or repair of boats or ships, including the sale, installation, and servicing of related equipment and parts.

3. **"Entertainment and excursion vessels"** means a vessel engaged in carrying passengers for hire for the purposes of entertainment or excursions (e.g., fishing, whale watching, diving, educational activities, harbor and coastal tours, dining/drinking, business or social special events and entertainment, etc.). See "Vessel."

4. **"Marine service station"** means a retail establishment that sells gasoline, diesel, and alternative fuels, lubricants, parts, and accessories for vessels and other convenience items. See "Vessel."

5. **"Water transportation service"** means an establishment that provides vessels to carry passengers for hire who are traveling to destinations within and outside of Newport Harbor. See "Vessel."

"Market-rate unit" means a dwelling unit in a residential project that is not an affordable unit.

"Massage Establishment (Land Use)" means any business conducted within the City of Newport Beach where any person, firm, association, partnership, corporation, or combination of individuals engages in, conducts, carries on or permits to be conducted or carried on, for money or any other consideration, administration to another person of a massage, bath or health treatment involving massages or baths.

"Massage service, accessory (land use)" means a massage establishment that is regulated by State law and operated as an accessory use in conjunction with an approved health club, athletic club, gym, or hotel or in conjunction with a medical office or chiropractic office. For the purpose of this definition, an accessory use shall mean a use that is not more than twenty-five (25) percent of the floor area of the related health or athletic activities of the primary use. Does not include "Adult-oriented businesses."

“Master fee schedule” means a resolution adopted by the City Council from time to time that sets fees for services provided by the City.

“Maximum Applied Water Allowance (MAWA)” for purposes of Section 21.30.085 (Water Efficient Landscaping) means the upper limit of annual applied water for the established landscaped area based upon the area’s reference evapotranspiration, the ET adjustment factor, and the size of the landscaped area. The estimated applied water use shall not exceed the maximum applied water allowance.

“Mean High Tide Line” means (a) The statistical mean of all the high tides over the cyclical period of 18.6 years, and shall be determined by reference to the records and elevations of tidal benchmarks established by the National Ocean Survey. In areas where observations covering a period of 18.6 years are not available, a determination may be made based on observations covering a shorter period, provided they are corrected to a mean value by comparison with observations made at some suitably located control tide station; or (b) the line legally adjudicated by the California Legislature.

“Mean high water” means the nineteen (19) year average of the higher high water heights. For diurnal tides, high water and higher water are the same.

“Mean low water” means the nineteen (19) year average of all low water heights (if the tide is either semidiurnal or mixed) or the lower low water heights if the tide is diurnal. For diurnal tides, low water and lower low water are the same.

“Mean Sea Level (MSL)” means the 19-year average height of the surface of the sea for all stages of the tide, usually determined from hourly height readings (see National Geodetic Vertical Datum of 1929).

Medical Clinic (Land Use). See “Offices, medical and dental (land use).”

“Merger” means the process authorized by the Subdivision Map Act to combine two or more adjacent lots into a single lot of record.

“Ministerial decision” means a decision involving only the use of fixed standards or objective measurements and no exercise of discretion by the public official. Examples of ministerial permits include zoning clearances or building permits. See “Discretionary decision.”

“Mitigate” means to ameliorate, alleviate, lessen in severity or avoid.

“Mitigated negative declaration” means the same as a negative declaration, with the addition of identified mitigation measures and a mitigation monitoring program.

“Mitigation, In-Kind” means a type of compensatory mitigation in which the adverse impacts to one habitat type are mitigated through the creation, restoration, or enhancement of the same habitat type.

"Mitigation, Out-of-Kind" means a type of compensatory mitigation in which the adverse impacts to one habitat type are mitigated through the creation, restoration, or enhancement of another habitat type.

"Mitigation measure" means a measure imposed on a project to ameliorate, alleviate, lessen the severity of or avoid adverse impacts on the environment. Consistent with Section 15370 of the State Guidelines for Implementation of the California Environmental Quality Act.

"Mobile home" means a trailer, transportable in one or more sections; that is certified under the National Manufactured Housing Construction and Safety Standards Act of 1974; that is over eight feet in width and forty (40) feet in length, with or without a permanent foundation and not including recreational vehicle, commercial coach or factory-built housing. A mobile home on a permanent foundation is included under the definition of "Single-unit dwelling."

"Moderate-income household" means a household whose income is between eighty (80) percent and one hundred twenty (120) percent of the Orange County median income ("Area median income"), adjusted for actual household size, as determined by the California Department of Housing and Community Development.

"Monitoring" means the systematic collection of physical, biological, or economic data or a combination of these data in order to confirm or verify compliance regarding project operation or to evaluate project performance.

"Mooring" means a device consisting of a floating buoy or other object that is secured to the harbor bottom by an anchor system for purposes of securing a vessel. The term "mooring" shall mean any appliance used to secure a vessel in Newport Harbor other than a pier, which is not carried aboard such vessel as regular equipment when under way.

Motel. See "Visitor accommodations."

MSL. See "Mean Sea Level."

Multi-Unit Dwelling. See "Dwelling, multi-unit."

"Municipal Code" means the Municipal Code of the City of Newport Beach, as amended.

N. "N" Definitions.

"Nail salon (land use)" means an establishment where twenty-five (25) percent or more of the work stations are used to provide manicure and/or pedicure services.

"National Register of Historic Places" means an official list, established by the National Historic Preservation Act, of sites, districts, buildings, structures, and objects significant in the nation's history or whose artistic or architectural value is unique.

~~**"Natural communities conservation plan (NCCP)"** means a plan for multi-species habitat conservation that is a collaboration of Federal and State resource agencies, local governments, special districts, and private property owners. The plan covers nearly thirty-eight thousand~~

~~(38,000) acres in coastal Southern California. In July of 1996, the City became a signatory agency in the Orange County Central-Coastal NCCP Subregional Plan.~~

NAVD 88. See "North American Vertical Datum of 1988."

"Negative declaration" means a written statement describing the reasons that a proposed project will not have a significant adverse effect on the environment and therefore does not require the preparation of an EIR, in compliance with the California Environmental Quality Act (CEQA). See "Mitigated negative declaration."

Net Public Area. See "Area, net public."

"New landscape installation project" for purposes of Section 21.30.085 (Water Efficient Landscaping) means a landscape installed in conjunction with any type of new development, whether or not the new development includes construction of new building(s). (Examples of a new development not associated with a new building could include parks, playgrounds, greenbelts.)
"Late hour operations" means facilities that provide service after 11:00 p.m. any day of the week.

Newport Bay/Harbor.

1. **Back Bay.** See "Upper Newport Bay" below.

2. **"Lower Newport Bay"** means the area of the bay southerly of the Coast Highway.

3. **"Newport Bay"** means the estuary consisting of the Lower Newport Bay and the Upper Newport Bay. The terms "Newport Bay" and "Newport Harbor" are often used interchangeably.

4. **"Newport Harbor"** means the water area within the Lower Newport Bay and within the Upper Newport Bay, exclusive of the Upper Newport Bay Marine Park. See "Newport Bay" above.

5. "**Upper Newport Bay"** means the area of the bay northerly of the Coast Highway Bridge. The terms "Upper Newport Bay" and "Back Bay" are often used interchangeably.

"Newport Coast Local Coastal Program" means the certified Local Coastal Program for the Newport Coast area.

Nightclub. See "Eating and drinking establishments."

"Noise" means an undesired sound.

"Nonconforming lot" means a lot that was legally created before the adoption of this Implementation Plan or that legally existed at the time of annexation, and that does not conform to current code provisions/standards (e.g., access, area or width requirements, etc.) prescribed for the zoning district in which the lot is located.

"Nonconforming structure" means a structure that was lawfully erected, but that does not conform to the property development regulations for the zoning district in which the structure is

located by reason of adoption or amendment of this Implementation Plan or by reason of annexation of territory to the City.

"Nonconforming use" means a use of a structure or land that was lawfully established and maintained, but that does not conform to the use regulations for the zoning district in which it is located by reason of adoption or amendment of this Implementation Plan or by reason of annexation of territory to the City.

"Noninvasive plant" means a plant that does not invade a habitat to the detriment of native species.

"North American Vertical Datum of 1988 (NAVD 88)" means a fixed reference for elevations determined by geodetic leveling created by the National Geodetic Survey.

"Nourishment" means the process of replenishing or enlarging a beach. It may be brought about naturally by longshore transport of sand or artificially by the deposition of dredged materials.

NPDES (National Pollutant Discharge Elimination System).

Nursery School/Preschool. See "Day care facilities."

Nursing Home. See "Convalescent facilities."

O. "O" Definitions.

"Oceanfront Boardwalk" means the twelve (12) to twenty-two (22) foot-wide multi-use concrete walkway parallel to the beach for approximately 3 miles from 36th Street in West Newport to F Street on the Balboa Peninsula.

"Off-street loading facility" means a site, or portion of a site, devoted to the loading or unloading of motor vehicles or trailers, including loading berths, aisles, access drives, and landscaped areas.

"Off-street parking facility" means a site, or portion of a site, devoted to parking of motor vehicles, including parking structures, parking spaces, aisles, access drives, and landscaped areas. See "Parking facility."

"Offer to dedicate (OTD)" means an offer by a landowner to grant a public access easement across their property for future public recreational use.

"Office, business (land use)" means an office where common business services are provided to the general public (e.g., consumer services (e.g., auto club, entertainment ticket sales, etc.), insurance, investment, real estate, tax preparation, travel, utility company offices, etc.). Typically, these uses have a higher rate of walk-in traffic than a professional office and visits are often made without an appointment. Does not include "Financial institutions and related services," "Office, corporate," "Office, professional," or "Postal services."

"Office, corporate (land use)" means a use where internal administration services for large organizations (e.g., the headquarters, regional offices, or administrative offices for a corporation, etc.) are provided.

"Office, medical and dental (land use)" means a use where medical and/or dental services are provided. Includes facilities for the diagnosis and treatment of human patients and laboratories incidental to the office use.

"Office, professional (land use)" means a use where professional services (e.g., accounting, architectural, engineering, legal, planning, psychological, psychiatric, etc.) are provided. Typically, these uses serve visitors on an appointment-only basis and walk-in traffic is minimal. Does not include "Assembly/meeting facilities," "Financial institutions and related services," "Office, business," "Office, medical and dental," or "Postal services."

"Offshore" means off or away from the shore. This area extends from beyond the breaker zone to the outer limit of the littoral zone and beyond.

"Onshore (Inshore)" means the region between the seaward edge of the foreshore and the seaward edge of the breakers or waves.

"Open Coastal Waters" means the area composed of submerged lands at extreme low-water of spring tide extending seaward to the boundaries of the Exclusive Economic Zone (12-200 miles). This includes navigation channels, turning basins, vessel berthing, anchorage, and mooring areas of Newport Bay. See also "Deepwater Areas."

"Open space (land use)" means a lot or area of land or water set aside, designated, dedicated, or reserved for public or private use or enjoyment.

1. **Common Open Space.** The land area within a residential development that is not individually owned or dedicated for public use and that is designed, intended, and reserved exclusively for the shared enjoyment or use by all the residents and their guests. Does not include enclosed spaces/facilities (e.g., community center, meeting rooms, etc.). Illustrative examples include:

    a. Areas of scenic or natural beauty.
    b. Barbecue areas.
    c. Habitat areas.
    d. Hiking, riding, or off-street bicycle trails.
    e. Landscaped areas.
    f. Play areas.
    g. Swimming pools.
    h. Tennis courts.
    i. Turf areas.

2. **Private Open Space.** An outdoor or unenclosed area directly adjoining and accessible to a dwelling unit, reserved for the exclusive private enjoyment and use of residents of the dwelling unit and their guests (e.g., balcony, deck, porch, terrace, etc.). Boundaries are evident through the use of fences, gates, hedges, walls, or other similar methods of controlling access and maintaining privacy.

3. **Usable Open Space.** An outdoor or unenclosed area within a residential development on the ground, or on a roof, balcony, deck, porch or terrace, designed and accessible for outdoor living, active or passive recreation, pedestrian access, or landscaping. Parking facilities, driveways, utility or service areas, required front or street side setback areas, and sloped or submerged land do not constitute usable open space.

Out-of-Kind Mitigation. See Mitigation, Out-of-Kind.

Outdoor Dining, Accessory. See "Eating and drinking establishments."

"Outdoor storage and display (land use)" means the storage of various materials outside of a building, either as an accessory or primary use.

"Outpatient surgery facility (land use)" means an establishment, separate from or not within a hospital, that offers planned surgical procedure(s) on an outpatient basis, with no overnight stays. See "Overnight."

"Overnight" means the period between 6:00 p.m. of one day and 7:00 a.m. of the next day. See "Day."

P. "P" Definitions.

Parcel. See "Lot."

"Parcel map" means the subdivision map described by the Subdivision Map Act, Article 3, Chapter 2 (Government Code Section 66410 et seq.), which is required to complete a subdivision of four or fewer lots. See also "Final map" and "Tentative map."

"Parking facility" means an area or structure used for the parking of motor vehicles as a commercial enterprise.

"Parking, shared" means a public or private parking area used jointly by two or more uses.

"Parking space" means an unobstructed space or area other than a street or alley that is permanently reserved, maintained, and accessible for the parking of one motor vehicle.

"Parking space, enclosed" means a parking space that is in a garage that is enclosed on four sides.

"Parking space, tandem" means a pair of parking spaces (i.e., two spaces) arranged one behind the other.

"Parking structure (land use)" means a structure that is open for public use for parking of motor vehicles; that is composed of one or more levels; and that may be totally below grade (as in an underground parking garage) or either partially or totally above grade. A fee may or may not be charged. Does not include "Garages" or "Carports."

Parks and Recreational Facilities (Land Use).

1. **"Recreation, active"** means a type of outdoor recreation or activity that requires the use of organized play areas (e.g., baseball, football, softball, and soccer fields; swimming pools; tennis and basketball courts; children's play equipment, etc.).

2. **"Recreation, passive"** means a type of outdoor recreation or activity that can be carried out with little alteration or improvement to existing topography of a site, with the use of existing natural resources, and with a minimal impact (e.g., bicycling, hiking, jogging, walking, bird-watching, picnicking, etc.).

Parolee-Probationer. A parolee-probationer includes: (a) any individual who has been convicted of a Federal crime, sentenced to a United States prison, and received conditional and revocable release in the community under the supervision of a Federal parole officer; (b) any individual who has served a term of imprisonment in a State prison and who is serving a period of supervised community custody, as defined in Penal Code Section 3000, and is under the jurisdiction of the California Department of Corrections, Parole and Community Services Division; (c) an adult or juvenile sentenced to a term in the California Youth Authority and who has received conditional and revocable release in the community under the supervision of a Youth Authority Parole Officer; or (d) any individual who has been convicted of a felony, sentenced to any correctional facility, including County correctional facilities, and is under the jurisdiction of any Federal, State, or County parole or probation officer. For the purposes of this definition, "felony" means a felony as defined by any California or United States statute.

"Parolee-probationer home (land use)" means any residential structure or dwelling unit, whether owned and/or operated by an individual or a for-profit or nonprofit entity, which houses two or more parolees-probationers unrelated by blood, marriage, or legal adoption, in exchange for monetary or nonmonetary consideration given and/or paid by the parolee-probationer and/or any public or private entity or person on behalf of the parolee-probationer.

"Patio" means a paved outdoor area that is used for lounging, dining, etc.

"Patio cover" means a solid-roof or open-roof structure that covers a patio, platform, or deck area. A patio cover may be detached from, or attached to, another structure. See "Awning" and "Canopy."

"Permit" means any license, certificate, approval, or other entitlement for use granted or denied by any public agency.

~~**"Permit and Appeal Jurisdiction Map"** means a map depicting those areas where the Coastal Commission retains permit and appeal jurisdiction.~~

"Person" means an individual, organization, partnership, limited liability company, or other business association or corporation, including a utility, and a Federal, State, local government, or special district or agency.

"Personal property sales (land use)" means the sale or offering for sale to the general public of miscellaneous personal property, as regulated by Section 21.48.150 (Personal Property Sales in Residential Districts). The term "personal property sales" includes "estate sales," "garage sales," "lawn sales," and "yard sales." Does not include "sidewalk sales" (see "Outdoor storage and display").

Personal Services (Land Use).

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

    a. Barber and beauty shops.
    b. Clothing rental shops.
    c. Dry cleaning pick-up stores with limited equipment.
    d. Laundromats (self-service laundries).
    e. Locksmiths.
    f. Shoe repair shops.
    g. Tailors and seamstresses.

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

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

    a. Day spas.

    b. Healing arts (acupuncture, aromatherapy, etc.) with no services qualifying under "Massage establishments."

    c. Tanning salons.

    d. Tattoo services and body piercing studios.

These uses may also include accessory retail sales of products related to the services provided. "Personal storage (mini-storage) (land use)" means a structure or group of structures containing generally small, individual, compartmentalized stalls or lockers rented as individual storage spaces.

"Pervious surface" means any material or surface that permits infiltration, percolation, or absorption of water into the ground through the material or surface.

"Pharmacy, medical supplies (land use)" means an establishment that sells medical equipment and supplies for home health care (e.g., scales, walking aids, bathroom safety aids; skin and personal care products; braces, supports, and splints; bandages and tape; etc.).

"Pier" means any fixed or floating structure for securing vessels, loading or unloading persons or property, or providing access to or over the water. A pier includes wharf, dock, slip or float, or any other landing facility and floating dry dock.

a. "**Commercial Pier**" means a pier adjacent to commercially or non-residentially zoned property with single or multiple berths which are rented or leased, including any pier used in connection with marinas, charter facilities, yacht clubs, yacht sales, rental facilities and boat yards. For purposes of Chapter 21.30C, multiple piers which are adjacent to a lot or

parcel of land occupied by a multifamily dwelling or dwelling units that are income generating, and structures adjacent to commercially zoned uplands that are business or income generating in nature, shall be deemed commercial.

b. **"Noncommercial pier"** means a pier used for private recreational purposes by the owner(s), occupant(s), guest(s) or lessee(s) of the abutting residentially zoned upland property.

c. **"Public pier"** means a pier used for public recreational purposes provided by a public agency.

"Pierhead line" means the harbor water area perimeter lines established in Newport Harbor by the Federal Government that define the permitted limit of fixed pier, floating dock and other in-water structures which may be constructed in the harbor. The pierhead line typically shall define the limit of pier and floating dock structures and defines the limit of construction except as otherwise approved by the City Council. Vessels may extend channelward of the pierhead line.

"Planning Commission" means the Newport Beach Planning Commission, referred to throughout this Implementation Plan as the "Commission."

Porch.

1. **Enclosed Porch.** (Also known as screened-in porches or three-season rooms). A platform projecting from or attached to a wall of a building that:

    a. Has direct access to a building;
    b. Is covered by a roof or roof-like structure;
    c. May or may not be heated or cooled; and
    d. Is enclosed by:

        i. Walls;
        ii. Permanent or removable windows or screens; or
        iii. A combination of walls and windows/screens.

2. **Open Porch.** A platform projecting from or attached to a wall of a building that:

    a. Has direct access to a building;
    b. Is covered by a roof or roof-like structure;
    c. Is not heated or cooled;
    d. Is open to the outside air; and
    e. Is not enclosed by:

        i. Walls;
        ii. Permanent or removable windows or screens; or
        iii. A combination of walls and windows/screens.

Open porches may be partially enclosed by a railing(s) not to exceed forty-two (42) inches in height as measured from the porch floor and may include columns for the purpose of supporting the roof or roof-like structure.

“Post-LCP Certification Permit and Appeal Jurisdiction Map” means a map generally depicting those areas where the Coastal Commission retains permit and appeal jurisdiction.

“Postal service (land use)” means an establishment that provides commercial postal services directly to the customer, including letter and parcel mailing, post office box rental, and related services.

“Predominant line of development” means the most common or representative distance from a specified group of existing structures to a specified point or line (e.g., topographic line or geographic feature). For example, the predominant line of development for a block of existing homes on a coastal bluff (a specified group of structures) could be determined by calculating the median distance (a representative distance) these structures are from the bluff edge (a specified line).

“Principal structure” means a structure in which the principal use of the lot and/or building site is conducted.

“Principal use” means the predominant use of a lot, building, or structure.

“Printing and duplicating services (land use)” means establishments that provide printing and duplicating services using blueprint, photocopy, and offset printing and similar equipment, including small-scale photo processing. Does not include photographic laboratories and industrial printing and publishing plants.

Protective Device or Structure. A structure built parallel to the bluff edge, bluff toe, canyon edge, canyon toe, or shoreline (e.g., retaining wall, vertical seawall, riprap, revetment, bulkhead, etc.) for the purposes of protecting a structure ~~or other upland property~~.

“Project” means an enterprise involving the development, structural modification, or redevelopment of commercial, industrial, mixed-use, residential, or other properties.

“Public Access” means the ability of the public to pass to and from the ocean, harbor, bay, channels, estuaries, salt marshes, sloughs, coastal blufftops, and coastal recreation areas and trails.

1. Vertical access: Provides public access from the first public road to the shoreline or bluff edge, or perpendicular to the shoreline or bluff edge.

2. Lateral access: An accessway for public access and use along the shoreline or bluff edge.

“Public park and playground (land use)” means land owned or operated by a municipality, school district, county, state, or other governmental unit and designed to serve the recreation needs of the residents of the City. Includes parks, play lots, playgrounds, athletic fields, sports courts. May also include passive outdoor recreation areas that are located in conservation areas. Does not include the same facilities that are privately owned or commercial facilities (“Commercial recreation and entertainment”).

“Public trust lands” means all lands subject to the Common Law Public Trust for commerce, navigation, fisheries, recreation, and other public purposes. Public trust lands include tidelands, submerged lands, the beds of navigable lakes and rivers, and historic tidelands and submerged lands that are presently filled or reclaimed and which were subject to the public trust at any time (California Code of Regulations, Section 13577). See “Submerged lands” and “Tidelands.”

“Public Trust Lands Delegated to the City” means certain filled, “former” tidelands committed to urban use where permit authority has been be delegated to the City pursuant to Coastal Act Section 30613.

“Public view” means a vista of features seen from a public vantage point as identified in ~~General~~ Coastal Land Use Plan~~ Figure NR~~ Map 4-3, including bodies of water, beaches, coastline, islands, ridges, bluffs, canyons, geologic features, and landmarks. The term “view” does not mean an unobstructed panorama of these features.

“Public Works Director” means the City of Newport Beach Public Works Director or a duly designated representative of the Public Works Director.

Public Works.

1. All production, storage, transmission, and recovery facilities for water, sewerage, telephone, and other similar utilities owned or operated by any public agency or by any utility subject to the jurisdiction of the Public Utilities Commission, except for energy facilities.

2. All public transportation facilities, including streets, roads, highways, public parking lots and structures, ports, harbors, airports, railroads, and mass transit facilities and stations, bridges, trolley wires, and other related facilities.

3. All publicly financed recreational facilities, all projects of the State Coastal Conservancy, and any development by a special district.

4. All community college facilities.

“Public Works Project” means any action undertaken by the City or under contract to the City to construct, alter, repair or maintain any city structure, utility or right of way including the erection of public signs, the painting or removing of street lines, parking space designations, or the painting or removing paint from curbs.

Q. “Q” Definitions.

“Queue space” means a temporary waiting area for motor vehicles or persons obtaining a good or service.

"Qualified Archaeologist" means a person who has earned a minimum of a Bachelor of Science degree in archaeology or a related field from an accredited college or university and has demonstrated field experience field and analytic experience in general North American archaeology.

“Qualified Biologist” means a person who has earned a minimum of a Bachelor of Science degree in biology or a related field from an accredited college or university and has demonstrated field experience evaluating land use impacts on marine or wildlife species and their habitats. Biologists who conduct wetland delineations shall have completed the U.S. Army Corps of Engineers' "Reg IV" wetland delineation training, or the equivalent, and shall have the demonstrated ability to independently conduct wetland delineations.

"Qualified Paleontologist" means a person who has earned a minimum of a Bachelor of Science degree in paleontology or a related field from an accredited college or university and has demonstrated field experience field and analytic experience in general North American paleontology.

R. “R” Definitions.

“Recommend” means that the review authority makes a recommendation to the decision-making body.

“Recreational vehicle (RV)” means a motor home, travel trailer, truck camper, or camping trailer, with or without motor power, designed for human habitation for recreational, emergency, or other occupancy.

Recreational Vehicle (RV) Park. See “Visitor accommodations.”

“Recycling facilities (land use)” means a variety of facilities involved with the collection of recyclable materials. A “certified” recycling or processing facility is certified by the California Department of Conservation as meeting the requirements of the California Beverage Container Recycling and Litter Reduction Act of 1986. Recyclable material includes reusable materials that can be reconstituted, remanufactured, or reused in an altered form, including glass, metals, paper, and plastic. Recyclable material does not include refuse or hazardous materials. This land use does not include storage containers located on a residentially, commercially, or industrially designated site used solely for the recycling of material generated on the site.

1. **“Collection facility (large)”** means a facility that occupies an area of more than three hundred fifty (350) square feet and/or includes permanent structures where the public may donate, redeem, or sell recyclable materials.

2. **“Collection facility (small)”** means a facility that occupies an area of three hundred fifty (350) square feet or less where the public may donate, redeem, or sell recyclable materials.

Research and Development (Land Use).

1. **General.** Establishments engaged in industrial or scientific research, including product testing. Includes electronic research firms or pharmaceutical research laboratories. Excludes manufacturing, except of prototypes, and medical testing and analysis.

2. **Restricted.** Research and development establishments that engage in activities that may involve the use of potentially hazardous materials, flammable substances, or chemical compound mixtures or devices; that may result in hazardous waste byproducts, conditions

commonly recognized as offensive; that may involve testing on animals; or that may require special handling protocols or security measures.

"Reference Evapotranspiration" or "ETo" for purposes of Section 21.30.085 (Water Efficient Landscaping) means a standard measurement of environmental parameters which affect the water use of plants.

Residential Care Facilities (Land Use).

1. **General Licensed (Seven or More Persons).** A place, site or building, or groups of places, sites or buildings, licensed by the State, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see "Single housekeeping unit") and in which every person residing in the facility (excluding the licensee, members of the licensee's family, or persons employed as facility staff) is an individual with a disability. Does not include "Group residential."

2. **General Unlicensed (Seven or More Persons).** A place, site or building, or groups of places, sites or buildings, which is not licensed by the State, and is not required by law to be licensed by the State, in which seven or more individuals with a disability reside who are not living together as a single housekeeping unit (see "Single housekeeping unit") and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include "Group residential."

3. **Limited Licensed (Six or Fewer Persons).** State-licensed facilities that provide care, services, or treatment in a community residential setting for six or fewer adults, children, or adults and children and which are required by State law to be treated as a single housekeeping unit for zoning purposes. Small licensed residential care facilities shall be subject to all land use and property development regulations applicable to single housekeeping units (see "Single housekeeping unit"). Does not include "Group residential."

4. **Small Unlicensed (Six or Fewer Persons).** A place, site or building, or groups of places, sites or buildings, which is not licensed by the State of California and is not required by law to be licensed by the State, in which six or fewer individuals with a disability reside who are not living together as a single housekeeping unit and in which every person residing in the facility (excluding persons employed as facility staff) is an individual with a disability. Does not include "Group residential."

Restaurant. See "Eating and drinking establishments."

Retail Sales (Land Use).

1. **General.** Retail establishments, completely enclosed within structures, engaged in selling goods or merchandise to the general public. Examples of these establishments and lines of merchandise include:

    a. Antiques.
    b. Appliances.
    c. Artists' supplies.

d. Automotive parts and accessories.
e. Bakeries (retail only).
f. Bicycle sales and rentals.
g. Books.
h. Cameras and photographic supplies.
i. Carpeting and floor covering.
j. Clothing and accessories.
k. Convenience market.
l. Drug and discount stores.
m. Electronic equipment.
n. Fabrics and sewing supplies.
o. Florists and houseplant stores (indoor sales only).
p. Gift shops.
q. Grocery store.
r. Handcrafted items.
s. Hardware.
t. Hobby materials.
u. Jewelry.
v. Kitchen utensils.
w. Locksmiths.
x. Luggage and leather goods.
y. Medical supplies and equipment.
z. Musical instruments, parts and accessories.
aa. Newsstands.
bb. Office supplies.
cc. Orthopedic supplies.
dd. Paint and wallpaper.
ee. Pharmacies.
ff. Religious goods.
gg. Secondhand clothing sales.
hh. Shoe stores.
ii. Small wares.
jj. Specialty food and beverage.
kk. Specialty shops.
ll. Sporting goods and equipment.
mm. Stationery.
nn. Supermarket.
oo. Tobacco.
pp. Toys and games.
qq. Travel services.

2. **Bulk Merchandise.** Retail establishments engaged in selling goods or merchandise to the general public as well as to other retailers, contractors, or businesses, and rendering services incidental to the sale of the goods. Bulk retail is differentiated from general retail by either of the following characteristics:

   a. A high volume of sales of related and/or unrelated products in a warehouse setting (i.e., “big box” retail).

b. The sale of goods or merchandise that require a large amount of floor space and that are warehoused and retailed at the same location.

Examples of items for sale include:

i. Electrical and heating fixtures and supplies.
ii. Furniture.
iii. Groceries.
iv. Household appliances.
iv. Household furnishings.
v. Household products.
vi. Lumber.
vii. Nursery stock.
viii. Personal care products.

Does not include marine sales, warehousing, wholesaling, or vehicle sales.

"Retaining wall" means a wall used to support or retain an earth embankment or area of fill.

"Revetment" means a sloped retaining wall; a facing of stone, concrete, blocks, rip-rap, etc. built to protect an embankment, bluff, or development against erosion by wave action and currents.

"Review authority" means the individual or official City or State body identified by this Implementation Plan as having the responsibility and authority to review and approve or disapprove ministerial and discretionary permit applications described in this Implementation Plan. Includes the Newport Beach City Council ("Council"), the Planning Commission ("Commission"), the Hearing Officer ("Hearing Officer"), the Planning Director ("Director"), the Zoning Administrator ("Zoning Administrator"), the Planning Community Development Department ("Department"), the City Traffic Engineer, and the Public Works Director and the California Coastal Commission ("Coastal Commission").

"Right-of-way" means an area of land acquired by reservation, dedication, prescription, or condemnation for public road, crosswalk, pedestrian walkway, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary or storm sewer, or other similar uses.

"Riparian" consists of trees, shrubs, or herbs that occur along watercourses or water bodies. The vegetation is adapted to flooding and soil saturation during at least a portion of its growing season.

S. "S" Definitions.

"Scenic Area" means places on, along, within, or visible from coastal view roads, trails, beaches, and parklands that offer scenic vistas of the beach and ocean, coastline, mountains, and coastal canyons.

"School, public and private (land use)" means a public or private academic educational institution or school providing specialized education/training Illustrative examples of these uses include:

1. Art school.
2. Boarding school.
3. Business, secretarial, and vocational school.
4. Community college, college, or university.
5. Computers and electronics school.
6. Culinary arts.
7. Dance school.
8. Drama school.
9. Driver education school.
10. Elementary, middle, or high schools.
11. Language school.
12. Military academy.
13. Music school.
14. Photography school.
15. Professional school (law, medicine, etc.).
16. Seminaries/religious ministry training facility.
17. Sailing school.
17~~7~~8. Tutoring centers.

Also includes facilities that offer specialized programs in personal growth and development (i.e., arts, communications, diet centers, environmental awareness, management, etc.). Does not include part-time religious instruction at places of worship or preschools and child day care facilities (see "Day care, general"). See "Studio—art, dance, martial arts, music, etc."

"School, related to medical professions (land use)" means an establishment that provides specialized on-site training of technical medical skills (e.g., anesthesiology technician, cardiovascular technician, dental assistant, emergency medical technician, medical laboratory technician, MRI technician, optical technician, pharmacy technician, phlebotomy technician, ultrasound technician, x-ray technician, etc.).

"Screening" means a landscaping treatment or a decorative structure to visually conceal an area or on-site utilitarian use that is considered unattractive.

"Sea" means the Pacific Ocean and all harbors, bays, channels, estuaries, salt marshes, sloughs, and other areas subject to tidal action through a connection with the Pacific Ocean, excluding nonestuarine rivers, streams, tributaries, and creeks and excluding flood control and drainage channels.

"Sea Level" means the height of the ocean relative to land; tides, wind, atmospheric pressure changes, heating, cooling, and other factors cause sea-level changes.

Sea Shell. See Shell.

"Seawall" means a structure separating land and water areas, primarily designed to prevent erosion and other damage due to wave action. It is usually a vertical wood or concrete wall as opposed to a sloped revetment.

Seasonal Wetland. See Wetland, Seasonal.

“Second unit” means a dwelling unit accessory to and attached to, detached from, or contained within the principal dwelling unit on a site. Does not include “Senior accessory dwelling unit.”
“Security” means bonds, cash deposits, letters of credit, and/or other instruments acceptable to the City that are used to guarantee specific performance.

“Sediment” means grains of soil, sand, or rock that have been transported from one location and deposited at another.

Senior Accessory Dwelling Unit. See “Dwelling unit, senior accessory.”

“Senior citizen housing” means an age-restricted multifamily residential development designed and intended to be principally occupied by senior citizens (i.e., a person sixty-two (62) years of age or older, or fifty-five (55) years of age or older in a senior citizen housing development). The development may include a congregate meals program in a common dining area. Does not include “Convalescent facility.”

“Senior citizen housing development” means a residential development developed, substantially rehabilitated, or substantially renovated for senior citizens (i.e., persons fifty-five (55) years of age or older) that has at least thirty-five (35) dwelling units and that conforms to Civil Code Section 51.3(b)(4).

“Sensitive Coastal Resource Area” means those identifiable and geographically bounded land and water areas within the Coastal Zone of vital interest and sensitivity. Sensitive coastal resource areas include the following:

1. Special marine and land habitat areas, wetlands, lagoons, and estuaries as mapped and designated in Part 4 of the coastal plan.

2. Areas possessing significant recreational value.

3. Highly scenic areas.

4. Archaeological sites referenced in the California Coastline and Recreation Plan or as designated by the State Historic Preservation Officer.

5. Special communities or neighborhoods that are significant visitor destination areas.

6. Areas that provide existing coastal housing or recreational opportunities for low- and moderate-income persons.

7. Areas where divisions of land could substantially impair or restrict coastal access.

“Sensitive Species” means those plant and animal species considered threatened or endangered by the U.S. Fish and Wildlife Service according to Section 3 of the Federal Endangered Species Act and/or the California Department of Fish and according to California Endangered Species Act ~~Game~~ Wildlife~~according to Section 3 of the Federal Endangered Species Act~~.

"Endangered" means a species in danger of extinction throughout all, or a significant portion of, its range.

"Threatened" means species likely to become an endangered species within the foreseeable future throughout all, or a portion of, its range.

Service Station. See "Vehicle/equipment services."

"Service station fueling space" means a temporary parking space immediately adjacent to a fuel dispensing unit.

"Setback" means the distance by which a structure, parking area, or other feature must be separated from a lot line or other designated point or line. See "Setback area" and Figure 7-2 (Setbacks).

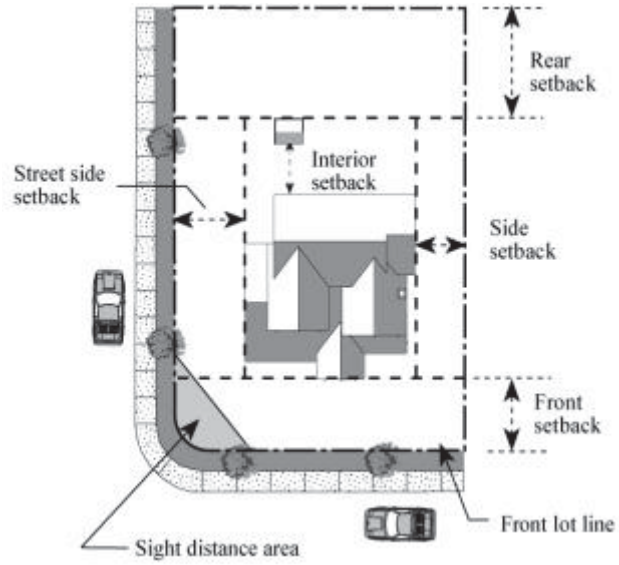


Figure 7-2—Setbacks

"Setback area" means an area within a lot that is established for the purpose of governing the location of structures on a lot. A setback area is located between a setback line and the nearest relevant parallel lot line and is unobstructed and unoccupied from the ground upward, except for encroachments allowed in compliance with Section 21.30.110 (Setback Regulations and Exceptions). See Figure 7-2 (Setbacks). See "Yard."

1. **"Front setback area"** means an area that extends across the full width of a lot between the front lot line and the required front setback line.

2. **"Rear setback area"** means an area that extends the full width of a lot between the rear lot line and the required rear setback line.

3. **"Side setback area"** means an area that extends from a front setback line to a rear setback line between the side lot line and the required side setback line.

"Setback line" means, within a lot, a line established to indicate the boundary of a specified front, side, or rear setback area. A setback line may be parallel to and equidistant from a lot line (front, back, and side) or from a current or future public right-of-way, whether acquired in fee, easement, or otherwise; or may be coterminous with the lot line. See the development standards tables in Part 2 (Zoning Districts, Allowable Land Uses, and Zoning District Standards) for the minimum required horizontal distance between a lot line and a setback line. See "Lot line."

"Shell" means hard rigid usually largely calcareous covering or support of an animal.

"Shore" means a narrow strip of land in immediate contact with the sea, including the zone between high and low water. A shore of unconsolidated material is usually called a beach.

"Shore or Shoreline Protection" means structures or sand placed at or on the shore to reduce or eliminate upland damage from wave action or flooding during storms.

"Shoreline" means the intersection of the sea with land; the line that delineates the shoreline on nautical charts and surveys published by the National Oceanic and Atmospheric Administration and that approximates the mean low water line from the time the chart was prepared.

Shoreline Protective Device. See "Protective Structure."

Short-Term Lodging (Land Use). See "Visitor Accommodations (Land Use)."

"Sign" means any device, fixture, placard or structure, including its component parts, that draws attention to an object, product, place, activity, opinion, person, establishment, institution, organization, or place of business, or that identifies or promotes the interests of any person and that is to be viewed from any public street, road, highway, right-of-way or parking area.

1. **"Billboard"** means a permanent structure used for the display of off-site commercial messages.

2. **"Directory Sign"** means a sign listing the tenants or occupants of a building or building complex.

3. **"Freestanding Sign"** means a sign supported permanently upon the ground by a structure and not attached to a building. This includes pylon signs, blade signs, and ground-mounted signs (monument signs).

4. **"Heritage Sign"** means a sign that is designated as historically or visually significant.

5. **"Monument sign"** means a freestanding sign supported by a solid architectural element at its base.

6. **"Pole sign"** means a sign that is supported by a single pole or similar support structure so that the bottom edge of the sign is one foot or more above grade.

7. **"Pylon Sign"** means a sign that is supported by two or more uprights, poles, or braces in or upon the ground that are not a part of a building or enclosed within the exterior walls of a building and are separated from any other structures by a distance of at least six inches.

This includes a sign that is supported by two or more poles that are surrounded by a decorative cover to form one solid sign support.

8. **"Residential Name or Identification Sign"** means a sign identifying the name or address of a residence and/or its occupants.

9. **"Roof Sign"** means a sign erected upon or above a roof of a building.

The following are not within the definition of "sign" for regulatory purposes of this Implementation Plan:

1. Interior Signs. Signs or other visual communicative devices that are located entirely within a building or other enclosed structure and are not visible from the exterior thereof or located at least five feet from the window, provided the building or enclosed structure is otherwise legal;

2. Architectural Features. Decorative or architectural features of buildings (not including lettering, logos, trademarks, or moving parts);

3. Symbols Embedded in Architecture. Symbols of noncommercial organizations or concepts, including religious or political symbols, when these are permanently integrated into the structure or a permanent building that is otherwise legal; also includes foundation stones, corner stones and similar devices;

4. Manufacturers' Marks. Marks on tangible products that identify the maker, seller, provider or product, and that customarily remain attached to the product even after sale;

5. Fireworks and Other Lights. The legal use of fireworks, candles and artificial lighting not otherwise regulated by Section 21.30.065;

6. Newsracks or newsstands;

7. Legally required information, including public notices, registration, or licensing information, etc.;

8. Murals.

"Single housekeeping unit" means the functional equivalent of a traditional family, whose members are an interactive group of persons jointly occupying a single dwelling unit, including the joint use of and responsibility for common areas, and sharing household activities and responsibilities (e.g., meals, chores, household maintenance, expenses, etc.) and where, if the unit is rented, all adult residents have chosen to jointly occupy the entire premises of the dwelling unit, under a single written lease with joint use and responsibility for the premises, and the makeup of the household occupying the unit is determined by the residents of the unit rather than the landlord or property manager.

Single-Unit Dwelling. See "Dwellings."

"Site" means a lot or adjoining lots under single ownership or single control, considered as a unit for the purposes of development or other use.

"Site coverage" means the percentage of a site covered by structures and accessory structures and by decks more than thirty (30) inches in height.

Site Design BMP. See "Best Management Practices (BMP)."

"Site plan" means a drawing of a lot, drawn to scale, showing the actual measurements, the size and location of existing structures or structures to be erected, the location of the lot in relation to abutting streets, and other information.

"Skylight" means the portion of a roof that is glazed to admit daylight, including the mechanical fastening required to hold the glazing and to provide a weatherproofing barrier.

"Slope" means land gradient, described as the vertical rise divided by the horizontal run, and expressed in percent or ratio. Slope is determined using the following equation:
Slope = (V/H) x 100, where:

V = vertical distance between the highest elevation and lowest elevation of a straight line drawn perpendicular to the sloping surface;

H = horizontal distance of a straight line drawn perpendicular to the sloping surface.

"Smoking lounge (land use)" means an establishment that is dedicated, in whole or part, to providing tobacco or other substances for smoking by patrons on the premises for a fee, including but not limited to establishments known as cigar lounges, hookah lounges, tobacco clubs, or tobacco bars. Does not include a "retail or wholesale tobacco shop," which sells tobacco products and smoking accessories, but does not provide for on-premises use of tobacco products.

"Solar equipment" means a solar collector or solar energy device whose primary purpose is to provide for the collection, storage, and distribution of solar energy for space heating or cooling, water heating, or for power generation.

"Solid waste" means garbage, refuse, rubbish, or other discarded materials, including garbage with insufficient liquid content to be free flowing, generally disposed of in landfills or incinerated.

Special Events (Land Use). See Section 21.48.095 (Special Events).

"Specific plan" means, under Government Code Section 65450 et seq., a policy statement and implementation tool adopted by the City Council that addresses a single project or planning problem. A specific plan may include detailed regulations, conditions, programs, and/or proposed legislation that may be necessary or convenient for the systematic implementation of a General Plan element(s).

Source control BMP. See "Best Management Practices (BMP)."

"Storm event, 100-Year" means the magnitude of a storm, flood or other meatorolical event expected to occur on the average every one-hundred (100) years, based on historical data. The

100-year storm, flood or other meatorolical event has a 1/100, or one (1) percent chance of occurring in any given year.

"Storm Water Pollution Prevention Plan (SWPPP)" means a plan which identifies best management practices (BMPs) that will be used during the construction of the project to reduce the impacts to storm water quality relating to material and waste management.

"Stream" means a topographic feature that at least periodically conveys water through a bed or channel having banks. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

"Street" means a public or private vehicular right-of-way (e.g., local streets, commuter roadways, arterials, etc.), but not including alleys, driveways, or off-road bikeways. See "Right-of-way."

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above and, for the top-most story, from the upper surface of the floor to the top of the ceiling joists, or, where there is no ceiling, to the top of the roof rafters.

"Structure" means anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Includes "Building."

"Structure, attached" means a structure that is connected to another structure by means of a wall, roof, stairway, atrium, breezeway, or other structural connection.
"Structure, detached" means a structure that does not have a wall or roof in common with another structure.

"Studio—art, dance, martial arts, music, etc., (land use)" means a small-scale instructional facility that typically accommodates one student or a group of students at a time, in no more than one instructional space. Examples of these small-scale facilities include: instruction and training in the arts, martial arts, gymnastics, etc.; photography and the processing of photographs produced only by users of the studio facilities; and production studios for individual filmmakers, musicians, painters, sculptors, photographers, and other artists. Larger facilities are included under the definition of "Schools, public and private." These uses may also include accessory retail sales of products related to the services provided.

"Subdivision" means the division by any subdivider of any unit or units of improved or unimproved land, or any portion thereof, shown on the latest equalized county assessment roll as a unit or as contiguous units, for the purpose of sale, lease or financing, whether immediate or future. Property shall be considered as contiguous units even if it is separated by roads, streets, utility easement or railroad rights-of-way. Subdivision includes a condominium project, as defined in subdivision (F) of Section 1351 of the Civil Code, a community apartment project, as defined in subdivision (D) of Section 1351 of the Civil Code or the conversion of five or more existing dwelling units to a stock cooperative, as defined in subdivision (M) of Section 1351 of the Civil Code. [Note: Same meaning as in the Subdivision Map Act.]

"**Subdivision Map Act"** means Division 2, Title 7 of the California Government Code, commencing with Section 66410, as amended, regarding the subdivision of real property.

"Submerged lands" means lands that lie below the line of mean low tide (from California Code of Regulations, Section 13577). See "Public trust lands."

"Supermarket" means a retail establishment that generally maintains a minimum gross floor area of ten thousand (10,000)/fifteen thousand (15,000) square feet and carries a broad range of food products (e.g., fresh fruits; fresh vegetables; baked goods, meat, poultry, and/or fish products; frozen foods; processed and prepackaged foods, etc.). May include accessory uses (coffee kiosks, ATMs, banks, etc.). Does not include "Convenience market."

"Supportive housing" means housing with no limit on length of stay, that is occupied by the target population, as defined by Section 53260(d) of the California Health and Safety Code, and that is linked to on-site or off-site services that assist the tenant to retain the housing, improve his or her health status, maximize their ability to live and, when possible, to work in the community. Supportive housing that is provided in single-, two-, or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses shall be permitted, conditionally permitted or prohibited in the same manner as the other single-, two- or multi-family dwelling units, group residential, parolee-probationer home, residential care facilities, or boarding house uses under this code.

Surface, Finished. See "Finished floor/surface."

"Sustainable development" means a pattern of resource use that aims to meet human needs while preserving the environment so that these needs can be met not only in the present, but in the indefinite future.

SWPPP. See "Storm Water Pollution Prevention Plan."

T. "T" Definitions.

Take-Out Service. See "Eating and drinking establishments."

Tandem Parking Space. See "Parking space, tandem."

"Temporary Structures (Land Use)" means a limited duration structure (e.g., classroom, office, or similar portable structure, including a manufactured or mobile unit).

"Temporary Uses (Land Use)" means a use of limited duration (e.g., interim, nonpermanent, and/or seasonal in nature).

"Tentative map" means a subdivision map prepared in compliance with the Subdivision Map Act (Government Code Section 66410 et seq.) that specifies the conditions that must be satisfied and the details that must be provided before approval of a final map. See also "Final map" and "Parcel map."

"Terrestrial" means land-related.

"Tidelands" means lands that are located between the lines of mean high tide and mean low tide (from California Code of Regulations Section 13577). See "Public trust lands."

Time Share Facility (Land Use). See "Visitor accommodations."

"Traffic safety area" means a triangular area as described in Section 21.30.130 (Traffic Safety Area).

"Transportation demand management (TDM)" means a strategy for reducing demand on the road system by reducing the number of vehicles using the roadways and/or increasing the number of persons per vehicle. TDM attempts to reduce the number of persons who drive alone on the roadway during the commute period and to increase the number in carpools, vanpools, buses and trains, walking, and biking. TDM can be an element of transportation systems management (TSM) (see "Transportation systems management (TSM)").

"Transportation systems management (TSM)" means individual actions or comprehensive plans to reduce traffic congestion by increasing the efficiency of the transportation system itself. Examples include improved traffic signal timing, coordination of multiple traffic signals, or spot improvements that increase capacity of the roadway system.

Treatment Control BMP. See "Best Management Practices (BMP)."

Triplex. See "Dwelling, multi-unit."

"Tsunami" means a long period wave, or seismic sea wave, caused by an underwater disturbance (e.g., volcanic eruption, earthquake, etc.).

"Turbidity" means a measure of the extent to which water is stirred up or disturbed, as by sediment; opaqueness due to suspended sediment.

"Turning Basin" means an area, often designated on nautical charts, connected to a channel that is large enough to allow vessels to maneuver or turn around.

Two-Unit Dwelling. See "Dwelling, two-unit."

U. "U" Definitions.

Unit. See "Dwelling unit."

Usable Open Space. See "Open space."

"Use" means the purpose for which land or a structure is arranged, designed, intended, maintained, or occupied.

Utilities (Land Use).

1. **Major.** ~~G~~Energty generating plants, electrical substations, above-ground electrical transmission lines, lone switching structures, refuse collection, transfer recycling or disposal facilities, water reservoirs, flood control or drainage facilities, water or wastewater treatment plants, transportation or communications utilities, and similar facilities of public agencies or public utilities. ~~The~~ Any utility structure or facility that may have a significant effect on surrounding uses.

2. **Minor.** Utility facilities that are necessary to support legally established uses and involve only minor structures (e.g., electrical distribution lines, underground water lines, underground sewer lines, etc.).

V. "V" Definitions.

Vehicle/Equipment Rentals (Land Use).

1. **General.** Rental of automobiles, construction equipment, motorcycles, recreational vehicles, trucks, and similar vehicles and equipment, including on-site storage and incidental maintenance that does not require pneumatic lifts. Does not include boat rentals (see "Marine rentals and sales").

2. **Limited.** Limited to the rental of mopeds, scooters, Segways, and similar vehicles with electric power or engines less than one hundred (100) cc. May also include the maintenance, minor repair, and on-site storage of the equipment offered for rent.

3. **Office Only.** Rental of automobiles, motorcycles, recreational vehicles, trucks, and other types of transportation vehicles. Does not include the on-site storage of or incidental maintenance of vehicles. Does not include boat rentals (see "Marine rentals and sales").

Vehicle/Equipment Repair (Land Use).

1. **General.** Major repair of automobiles, motorcycles, recreational vehicles, or trucks. Examples of uses include body and fender shops; brake shops; full-service motor vehicle repair garages; machine shops; painting shops; tire sales and installation shops; towing services; and transmission shops. Does not include vehicle dismantling or salvage and tire retreading or recapping. Does not include boat repair (see "Marine services").

2. **Limited.** Minor repair of automobiles, motorcycles, recreational vehicles, or light trucks, vans, or similar size vehicles. Examples of uses include brake adjustments and repairs; installation of electronic equipment (e.g., alarms, stereos, etc.); servicing of cooling, electrical, fuel, and exhaust systems; oil and lube shops; wheel alignment and balancing. Does not include boat repair. See "Marine services."

Vehicle/Equipment Sales (Land Use).

1. **General.** Sale of automobiles, construction equipment, motorcycles, recreational vehicles, trucks, and similar vehicles and equipment, including display, storage, maintenance, repair, and incidental rental of the vehicles and equipment. May include the sale, installation, and servicing of related equipment and parts. Does not include boat sales (see "Marine rentals and sales").

2. **Limited.** Limited to the sale of automobiles, including display, storage, minor maintenance, and incidental rental. Does not include maintenance and/or repair requiring pneumatic lifts. Does not include boat sales (see "Marine rentals and sales").

3. **Vehicles Sales, Office Only.** Limited to an office for the sale of automobiles. Does not include on-site inventory, display, storage, maintenance, or repair of automobiles. May be subject to parking requirements of the Department of Motor Vehicles.

Vehicle/Equipment Services (Land Use).

1. **Automobile Washing/Detailing.** Establishments engaged in the washing, waxing, or cleaning of automobiles or similar light vehicles.

    a. **Full Service.** A car wash establishment where operating functions are performed entirely by an operator/owner with the use of washing, waxing, and drying equipment supplemented with manual detailing by the operator/owner.

    b. **Self-Service or Accessory.** An establishment where washing, drying, polishing, or vacuuming of an automobile is done by the car driver or occupant.

2. **"Service station"** means an establishment engaged in the retail sale of gasoline, diesel, and alternative fuel, lubricants, parts, and accessories, including incidental minor maintenance and repair of automobiles and light trucks, vans, or similar size vehicles. Does not include body and fender work or heavy repair of trucks or other motor vehicles (see "Vehicle/Equipment Repair").

3. **"Vehicle storage"** means storage of operative or inoperative vehicles, including tow yards (i.e., outdoor storage facilities for the temporary storage of towed vehicles), impound yards, and storage lots for automobiles, trucks, buses, and recreational vehicles. Does not include vehicle/equipment repair activities (see "Vehicle/equipment repair") or vehicle dismantling or salvage.

"Vehicles for hire (land use)" means a use specializing in the provision of vehicles with drivers to the general public for the purpose of transportation (e.g., taxi or limousine service). May also include business office and the maintenance, minor repair, and on-site storage of vehicles for hire. Does not include vehicle rental uses or a vehicle for hire use that is an office use only and does not include storage or maintenance of vehicles on site.

"Vernal Pool" means a low ~~a~~ depression that typically ~~are~~ is flooded and saturated above a hardpan or claypan for several weeks to a few months in the winter and spring.

"Very low-income household" means a household whose income is fifty (50) percent or less of the Orange County median income ("Area Median Income"), adjusted for actual household size, as determined by the California Department of Housing and Community Development.
"Vessel" means every type of watercraft that is used or capable of being used as a means of transportation on water. This includes all vessels of any size home-ported, launched/retrieved, or visiting in Newport Harbor, arriving by water or land, and registered or unregistered under State or Federal requirements, except a seaplane on the water.

"Vessel" means watercraft used or capable of being used as a means of transportation on water.

Visitor Accommodations (Land Use).

1. **“Bed and breakfast inn”** means a dwelling unit that offers guest rooms or suites for a fee for less than thirty (30) days, with incidental eating and drinking service provided from a single kitchen for guests only.

2. **“Campground”** means a lot upon which one or more sites are located, established, or maintained for rent as an overnight tenting or camping area for recreation or vacation purposes.

3. **“Hostel”** means Establishments offering supervised overnight sleeping accommodations, primarily for travelers who use non-motorized transportation or commercial or public transportation. Such sleeping accommodations are designed, intended to be used and are used, rented or hired out as temporary or overnight accommodations for guests in which daily services of linen change, towel change, soap change and general clean-up are provided by the management. If kitchen or eating facilities are provided, they are communal in nature.

4. **“Hotel”** means an establishment that provides guest rooms or suites for a fee to transient guests for sleeping purposes. Access to units is primarily from interior lobbies, courts, or halls. Related accessory uses may include conference and meeting rooms, restaurants, bars, and recreational facilities. Guest rooms may or may not contain kitchen facilities for food preparation (i.e., refrigerators, sinks, stoves, and ovens). Hotels with kitchen facilities are commonly known as extended stay hotels. A hotel operates subject to taxation under Revenue and Taxation Code Section 7280.

5. **“Motel”** means an establishment that provides guest rooms for a fee to transient guests for sleeping purposes. Guest rooms do not contain kitchen facilities. A motel is distinguished from a hotel primarily by direct independent access to, and adjoining parking for, each guest room. A motel operates subject to taxation under Revenue and Taxation Code Section 7280.

6. **“Recreational vehicle (RV) park”** means a lot upon which two or more recreational vehicle sites are located, established, or maintained for occupancy for a rental fee by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

7. **“Short-term lodging”** means a dwelling unit that is rented or leased as a single housekeeping unit (see “Single housekeeping unit”) for a period of less than thirty (30) days.

8. **“Single room occupancy, residential hotels (SRO)”** means buildings with six or more guest rooms without kitchen facilities in individual rooms, or kitchen facilities for the exclusive use of guests, and which are also the primary residences of the hotel guests.

9. **“Time share project”** means a development in which a purchaser receives the right in perpetuity, for life, or for a term of years, to the recurrent, exclusive use or occupancy of an ownership interest in a lot, unit, room(s), or segment of real property, annually or on some other seasonal or periodic basis, for a period of time that has been or will be allotted from the use or occupancy periods into which the project has been divided and shall include, but not be limited to, time share estate, interval ownership, fractional ownership, vacation

license, vacation lease, club membership, time share use, hotel/condominium, or uses of a similar nature See also "Limited-Use Overnight Visitor Accommodations (LUOVA)."

10. **"Time share estate"** means a right of occupancy in a time share project that is coupled with an estate in the real property.

11. **"Time share interval"** means the period or length of time of occupancy in a time share unit.

12. **"Time share unit"** means each portion of the real property or real property improvement in a project that is divided into time share intervals.

13. **"Time share use"** means a license or contractual or membership right of occupancy in a time share project that is not coupled with an estate in the real property.

"Visitor-serving retail (land use)" means retail establishments primarily engaged in selling goods or merchandise to tourists and visitors. Examples of these establishments and lines of merchandise include:

1. Antiques.
~~2. Appliances.~~
3. Art galleries.
4. Artists' supplies.
5. Bakeries (retail only).
6. Bicycle sales and rentals.
7. Books.
8. Cameras and photographic supplies.
9. Clothing and accessories.
10. Convenience market.
~~11. Drug and discount stores.~~
12. Gift shops.
13. Handcrafted items.
14. Hobby materials.
15. Jewelry.
16. Luggage and leather goods.
17. Newsstands.
~~18. Pharmacies.~~
19. Specialty food and beverage.
21. Specialty shops.
21. Sporting goods and equipment.
~~22. Tobacco.~~
23. Toys and games.
24. Travel services.

W. "W" Definitions.

"Warehousing (land use)" means establishments engaged in providing facilities for the storage of furniture, household goods, products, or other commercial goods. Includes cold storage. Does not include personal storage (mini-storage) facilities offered for rent or lease to the general public

("Personal storage—mini-storage"); or warehouse facilities in which the primary purpose of storage is for wholesaling ("Wholesaling").

1. **Small.** Establishments located in facilities that are five thousand (5,000) square feet or less in size.

2. **Large.** Establishments located in facilities that are over five thousand (5,000) square feet in size.

"Water Quality Management Plan (WQMP)" means a plan which identifies best management practices (BMPs) that will be used to minimize to the maximum extent practicable dry weather runoff and runoff from small storms (less than 0.75 inch of rain falling over a 24-hour period) from the property.

"Water Feature" for purposes of Section 21.30.082 (Water Efficient Landscaping) means a design element where open water performs an aesthetic or recreational function. Water features include ponds, lakes, waterfalls, fountains, artificial streams, spas, and swimming pools (where water is artificially supplied). The surface area of water features is included in the high water use hydrozone of the landscaped area. Constructed wetlands used for on-site wastewater treatment, habitat protection or storm water best management practices that are not irrigated and used solely for water treatment or storm water retention are not water features and, therefore, are not subject to the water budget calculation.

Water Transportation Service. See "Marine services."

Waterfront Lot. See "Lot, waterfront."

"Watershed" means ~~the geographical area~~ a drainage basin defined by high points and ridges that is drained by a river and its connecting tributaries into a common ~~source~~ outlet. A watershed may, and often does, cover a very large geographical region.

"Wave:" ~~A~~ means a ridge, deformation, or undulation of the surface of a liquid. On the ocean, most waves are generated by wind and are often referred to as wind waves. Waves are characterized by length, amplitude, and speed.

"Wetlands" means those areas where the water table is at, near, or above the land surface long enough to ~~bring about~~ promote the formation of hydric soils or to support the growth of hydrophytes. ~~. Such wetlands can~~ include areas where vegetation is lacking and soil is poorly developed or absent as a result of frequent drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentration of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to, vegetated wetlands or deep water habitats. Wetlands do not include areas ~~which~~ that in normal rainfall years are permanently submerged (streams, lakes, ponds and impoundments), nor marine or estuarine areas below extreme low water of spring tides.

"Wetland, Seasonal" means an area that is wet during the rainy season and dries during the remainder of the year.

"Wireless Telecommunication Facility" means an installation that sends and/or receives wireless radio frequency signals or electromagnetic waves, including but not limited to directional, omni-directional and parabolic antennas, structures or towers to support receiving and/or transmitting devices, supporting equipment and structures, and the land or structure on which they are all situated. The term does not include mobile transmitting devices, such as vehicle or hand held radios/telephones and their associated transmitting antennas.

WQMP. See "Water Quality Management Plan."

X. "X" Definitions.

"Xeriscaping" means a set of landscape design and maintenance principles and horticultural practices that promote efficient use of water. The term "xeriscape" is a registered trademark of the National Xeriscape Council and means water-conserving, drought-tolerant landscaping.

Y. "Y" Definitions.

"Yard" means the area between a lot line and a principal structure. May be the same size as or larger than a required setback area. See "Setback area."

Z. "Z" Definitions.

"Zoning Administrator" means the Newport Beach Zoning Administrator designated to make decisions on applications as provided in Chapter 21.60 (Administrative Responsibility), referred to as the "Zoning Administrator."

"Zoning district" means a residential, commercial, industrial, mixed-use, special purpose, or overlay district established by Part 2 of this Implementation Plan (Zoning Districts, Allowable Land Uses, and Zoning District Standards) within which certain land uses are allowed and certain site planning and development standards are established (e.g., setbacks, height limits, site coverage requirements, etc.).

"**Zoning district, principal"** means the zoning district applied to a site by the Zoning Map, to which an overlay zoning district may also be applied.

Zostera marina. See "Eelgrass."

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Chapter 21.80 – Maps

Sections:

21.80.010 Area Maps
21.80.020 Bluff Overlay
21.80.025 Canyon Overlay
21.80.030 Height Limit Areas
~~21.80.035 Parking Management Overlay District Maps~~
21.80.040 Setback Maps
~~21.80.045 Permit and Appeal Jurisdiction Maps~~
21.80.055 Planned Community Site Plans

21.80.010 – Area Maps

A-1 - Balboa Island (Includes Little Balboa Island and Collins Island)
A-2 - Balboa Peninsula
A-3 - Buck Gully
A-4 - Cameo Highlands
A-5 - Cameo Shores
A-6 - Corona del Mar
A-7 – Corona Highlands
A-8 - Shorecliffs
A-9 – Irvine Terrace
A-10 – Lido Isle
A-11 - Lido Marina Village / Mariners' Mile
A-12 - Upper Newport Bay
A-13 - West Newport
A-14 – Statistical Area A-2

21.80.020 – Bluff Overlay

B - Bluff Overlay Index Map
B-2 - Irvine Terrace - Dolphin Terrace
B-3 - Irvine Terrace - Bayadere Terrace
B-4 - Avocado Avenue/Pacific Drive
B-5 - Carnation Avenue
B-6 - Ocean Boulevard / Breakers Drive
B-7 - Shorecliffs
B-8 - Cameo Shores
<u>B-9 – Upper Newport Bay Bluffs</u>

21.80.025 – Canyon Overlay

C-1 – Canyon Overlay

21.80.030 – Height Limit Areas

H-1 High Rise and Shoreline Height Limit Areas

~~**21.80.035 – Parking Management Overlay District Maps**~~

~~**PM-1 – Balboa Village Parking Management Overlay District**~~

21.80.040 – Setback Maps

S-1 – Index Map
S-1A - West Newport
S-1B - West Newport
S-2A - Balboa Peninsula
S-2B - Balboa Peninsula
S-2C - Balboa Peninsula
S-2D - Balboa Peninsula
S-2E - Balboa Peninsula
S-2F - Balboa Peninsula
S-2G - Balboa Peninsula
S-3A - Lido Isle
S-3B - Lido Isle
S-4 - Balboa Island
S-5 - Newport Heights
S-6 - BayShores
S-7 - Beacon Bay Area
S-8 - Harbor Island
S-9A - Irvine Terrace
S-9B - Irvine Terrace
S-10A - Corona del Mar
S-10B - Corona del Mar
S-10C - Corona del Mar
S-10D - Corona del Mar
S-13A - Dover Shores
S-13B - Dover Shores
S 13C - Dover Shores
S-14 - Granville Drive

~~**21.80.045 – Permit and Appeal Jurisdiction Maps**~~

~~P-1 - Permit and Appeal Area (West Newport Area)~~
~~P-2 - Permit and Appeal Area (Harbor Area)~~
~~P-3 - Permit and Appeal Area (Upper Newport Bay)~~
~~CE-1 - Categorical Exclusion Area (West Newport Area)~~
~~CE-2 - Categorical Exclusion Area (Harbor Area)~~
~~CE-3 – Categorical Exclusion Area (Upper Newport Bay)~~
~~DC-1 – Banning Ranch Deferred Certification Area~~
~~PT-1 – Public Trust Lands Delegated to the City~~

21.80.055 – Planned Community Site Plans

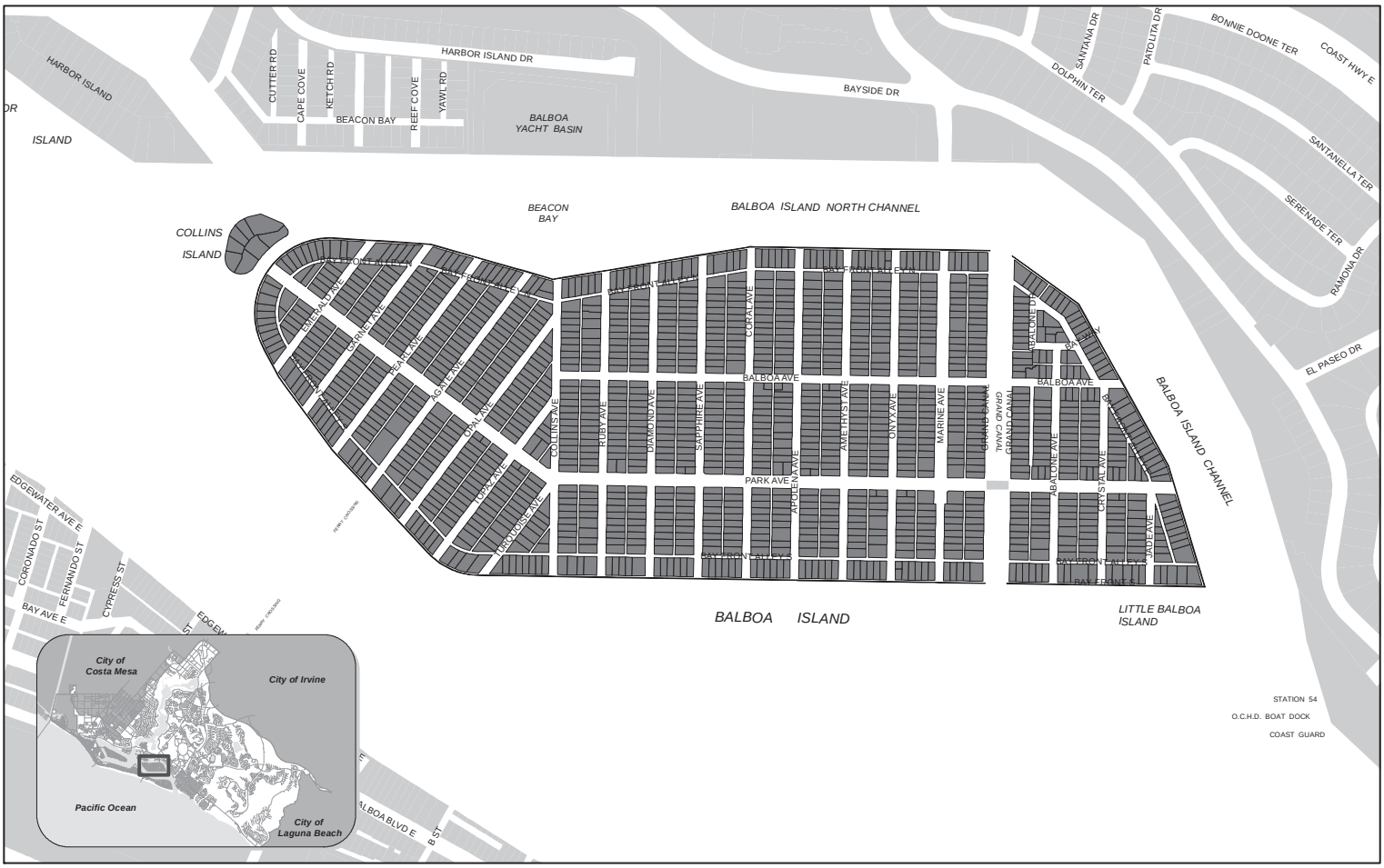
PC-01– Bayside Village Mobile Home Park

21.80.055 – Planned Community Site Plans

PC-01– Bayside Village Mobile Home Park
PC-07 – Park Newport
PC-09 – Bayside Village Boat Launch and Storage
PC-12 – Promontory Point
PC-14 – Newport Crest
PC-16 – Newport Terrace
PC-36 – Emerald Village
PC-38 – Hoag Hospital Development Criteria Plan
PC-44 – Upper Newport Bay Regional Park
PC-47 – Armstrong Garden
PC-51 – Marina Park

21.80.065 – Planned Community Land Use Maps

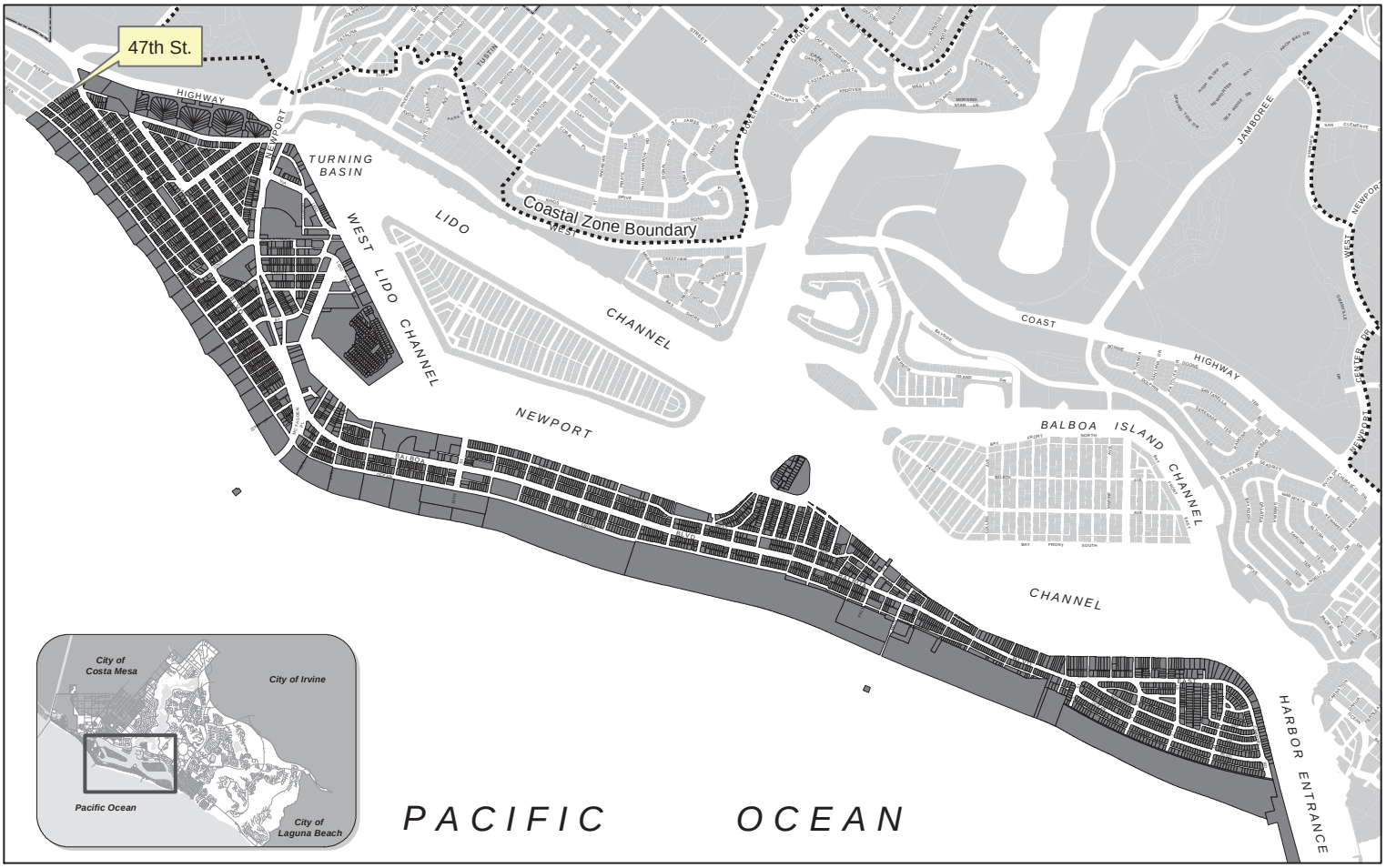
PC-05 – North Ford
PC-21 – Sea Island
PC-22 – Westcliff Grove
PC-29 – Corona del Mar Homes
PC-30 – Villa Point Apartments
PC-32 – Bayview
PC-37 – Castaways Marina
PC-39 – Bayview Landing
PC-40 – Corporate Plaza West
PC-41 – Newporter North
PC-42 – San Diego Creek North
PC-43 – Upper Castaways
PC-45 – Balboa Bay Club
PC-47 – Newport Beach Country Club
PC-54 – Santa Barbara Residential
PC-55 – Bayside Residential



A-1 Balboa Island (Includes Little Balboa Island and Collins Island) DRAFT

0 250 500 Feet

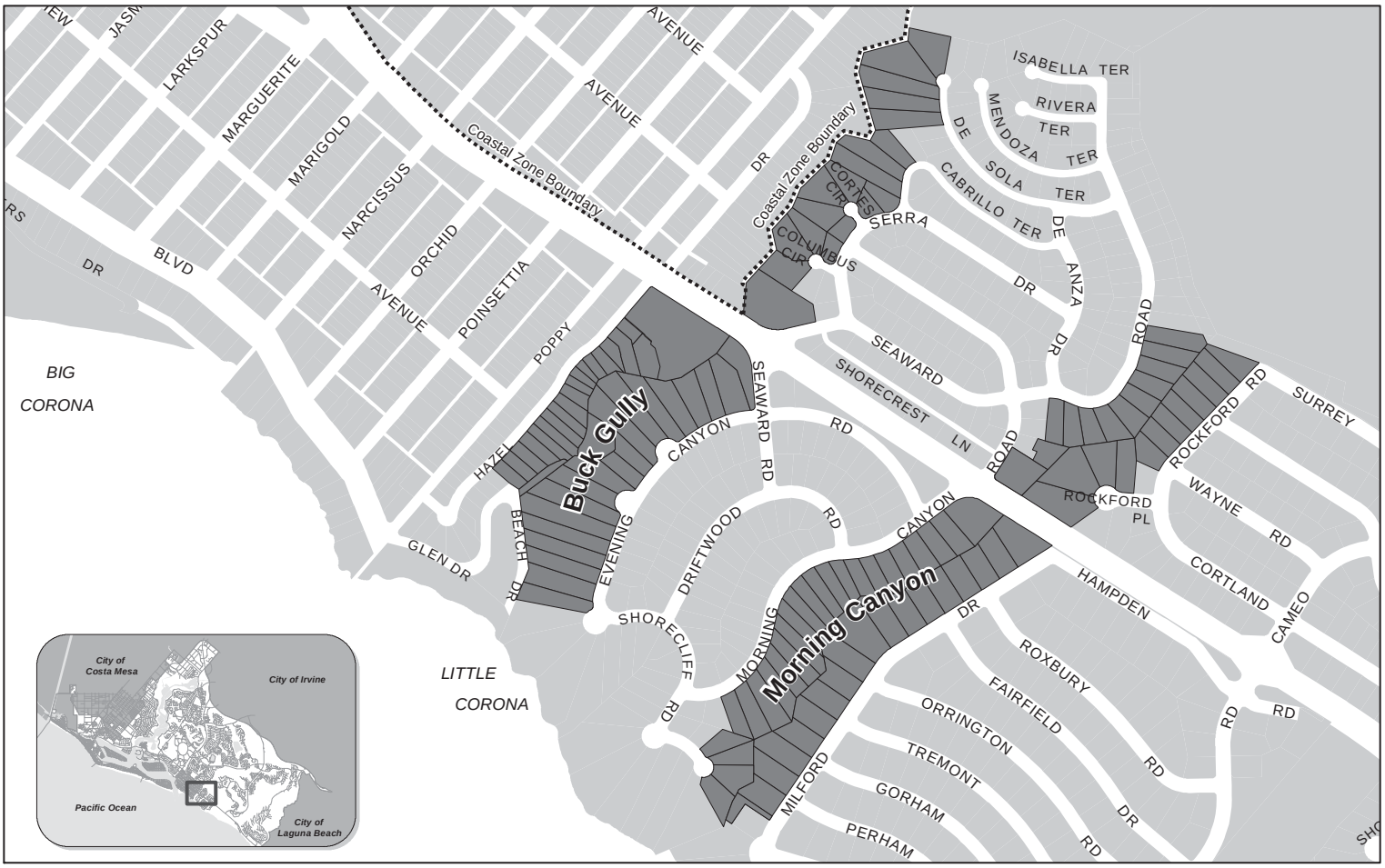
Name: A-1_Balboa_Island_IP / November 2015



A-2 Balboa Peninsula DRAFT

0 1,000 2,000 Feet

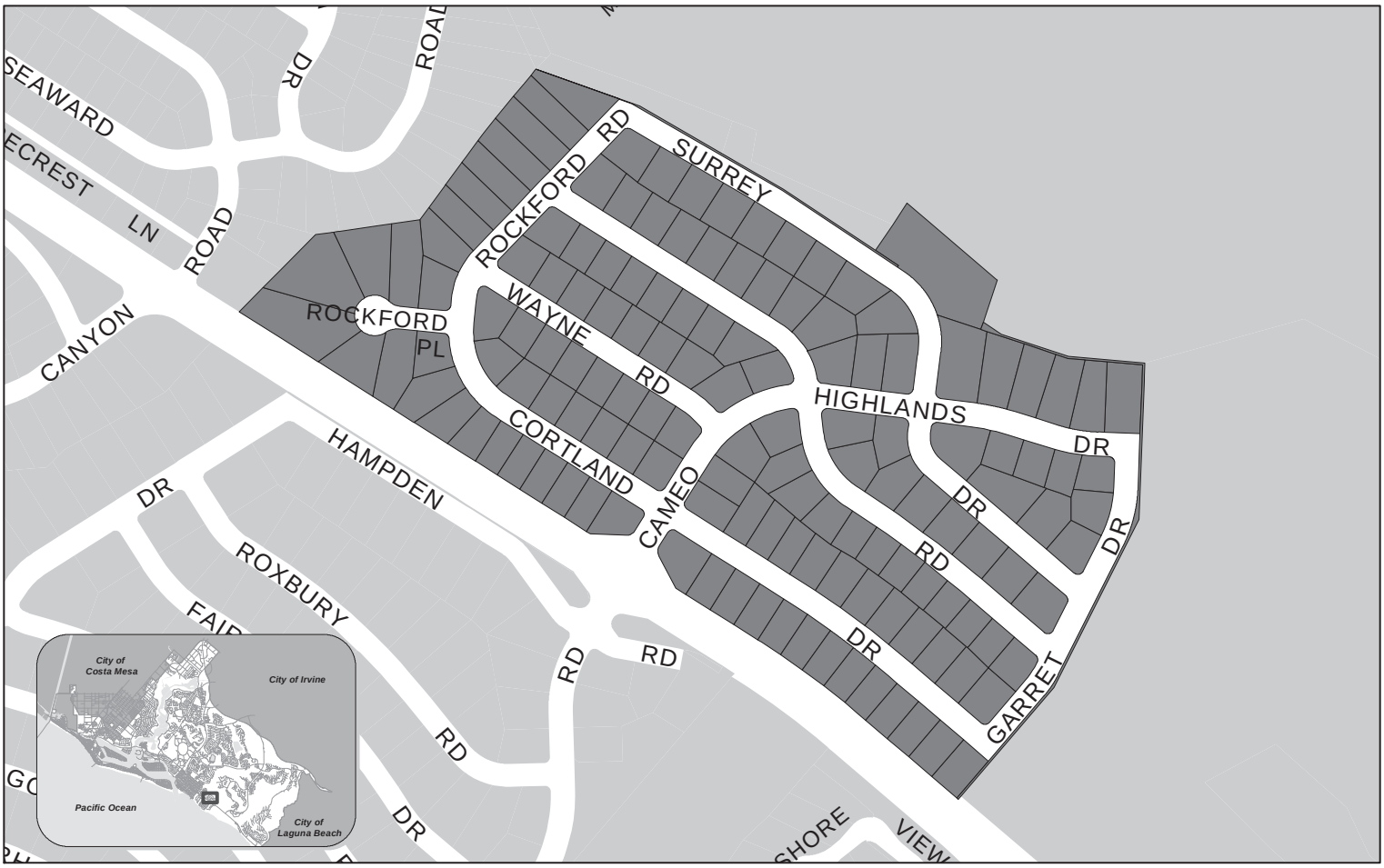
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A-3 Buck Gully and Morning Canyon DRAFT

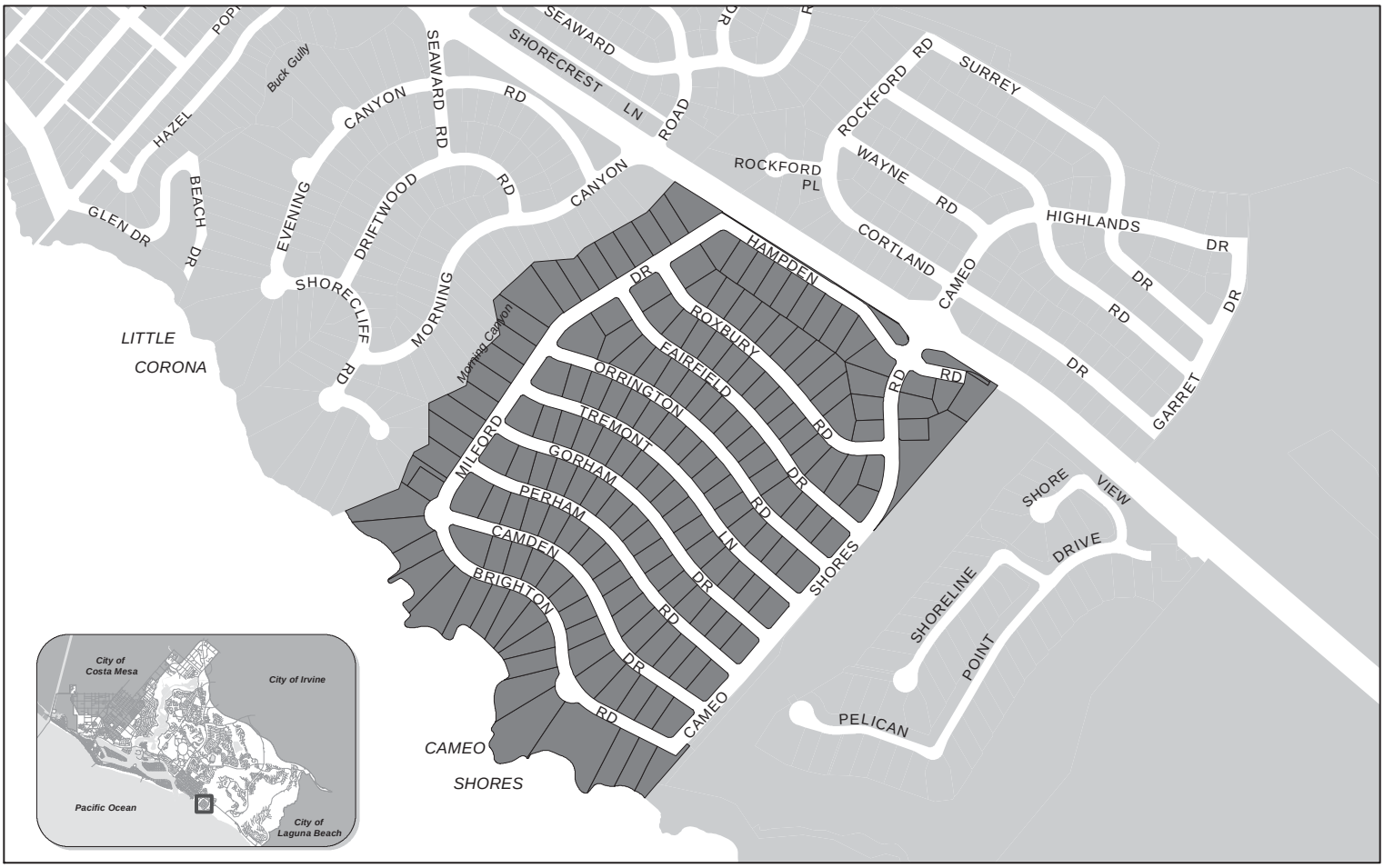
0 250 500 Feet

Name: A-3_Buck_Gully_IP / November 2015



A-4 Cameo Highlands DRAFT

Name: A-4_Cameo_Highlands_IP / November 2015



A-5 Cameo Shores DRAFT

0 250 500 Feet

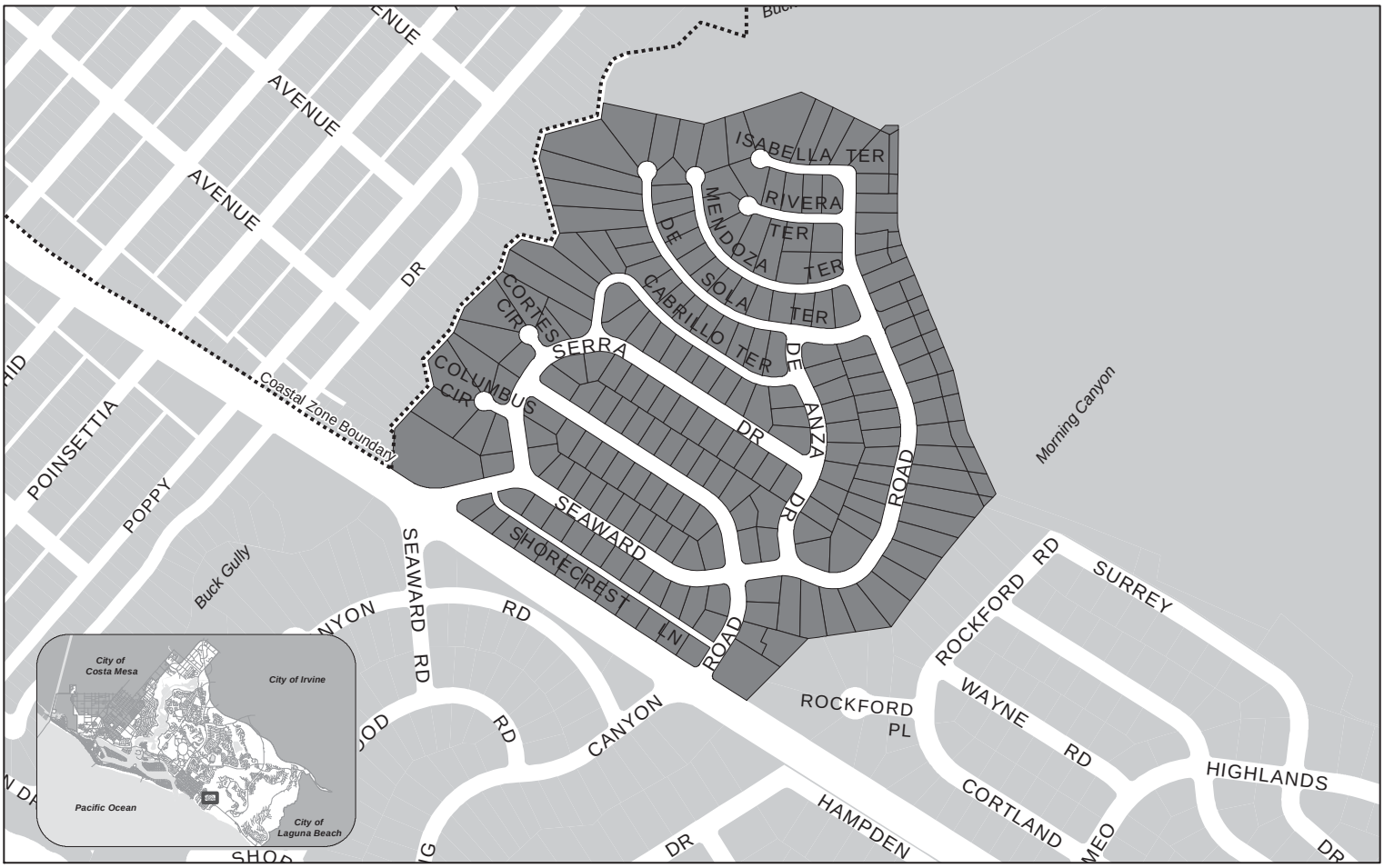
Name: A-5_Cameo_Shores_IP / November 2015



A-6 Corona del Mar DRAFT

0 250 500 1,000 Feet

Name: A-6_Corona_Del_Mar_IP / November 2015



A-7 Corona Highlands DRAFT

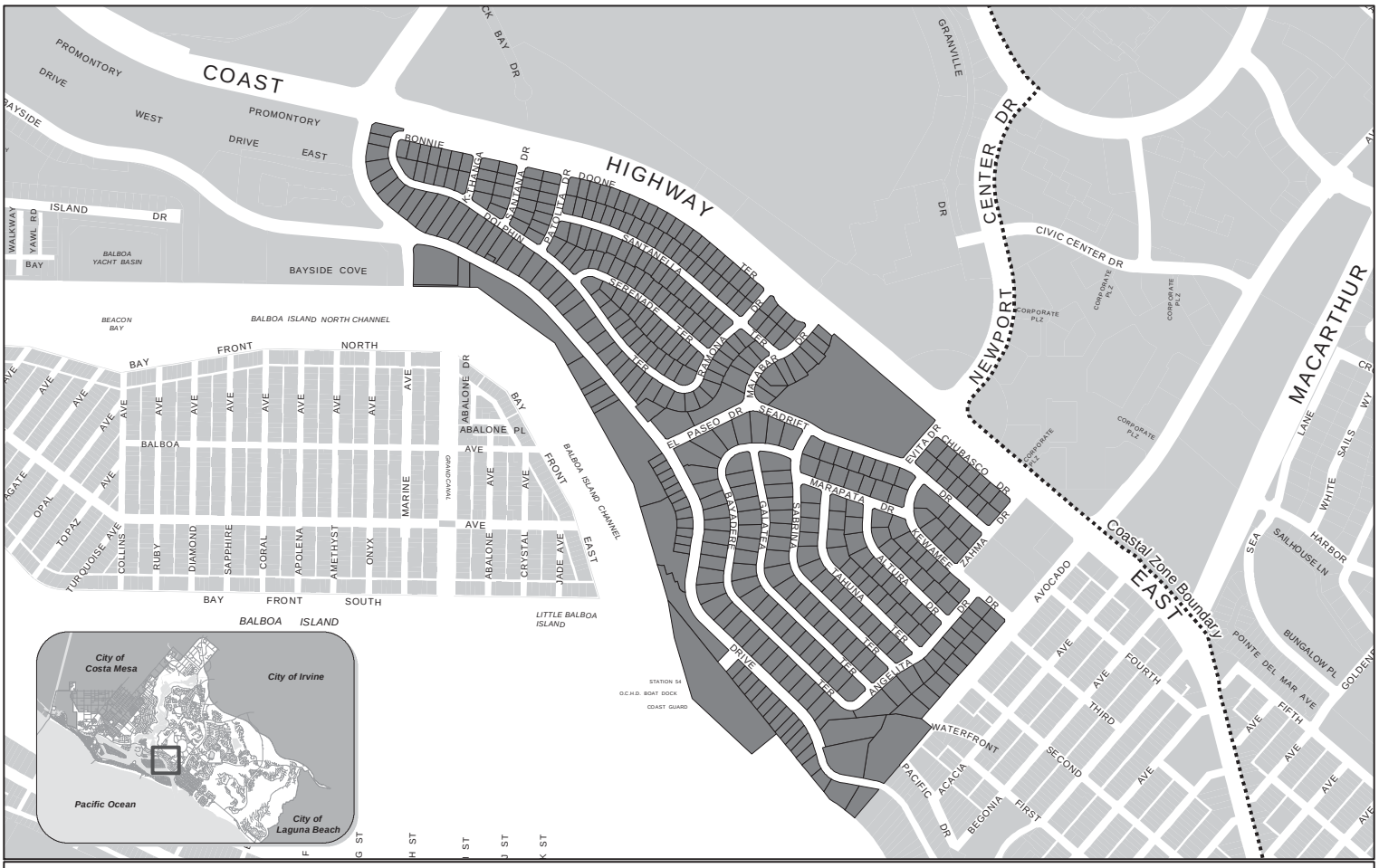
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A-8 Shorecliffs DRAFT

0 250 500 Feet

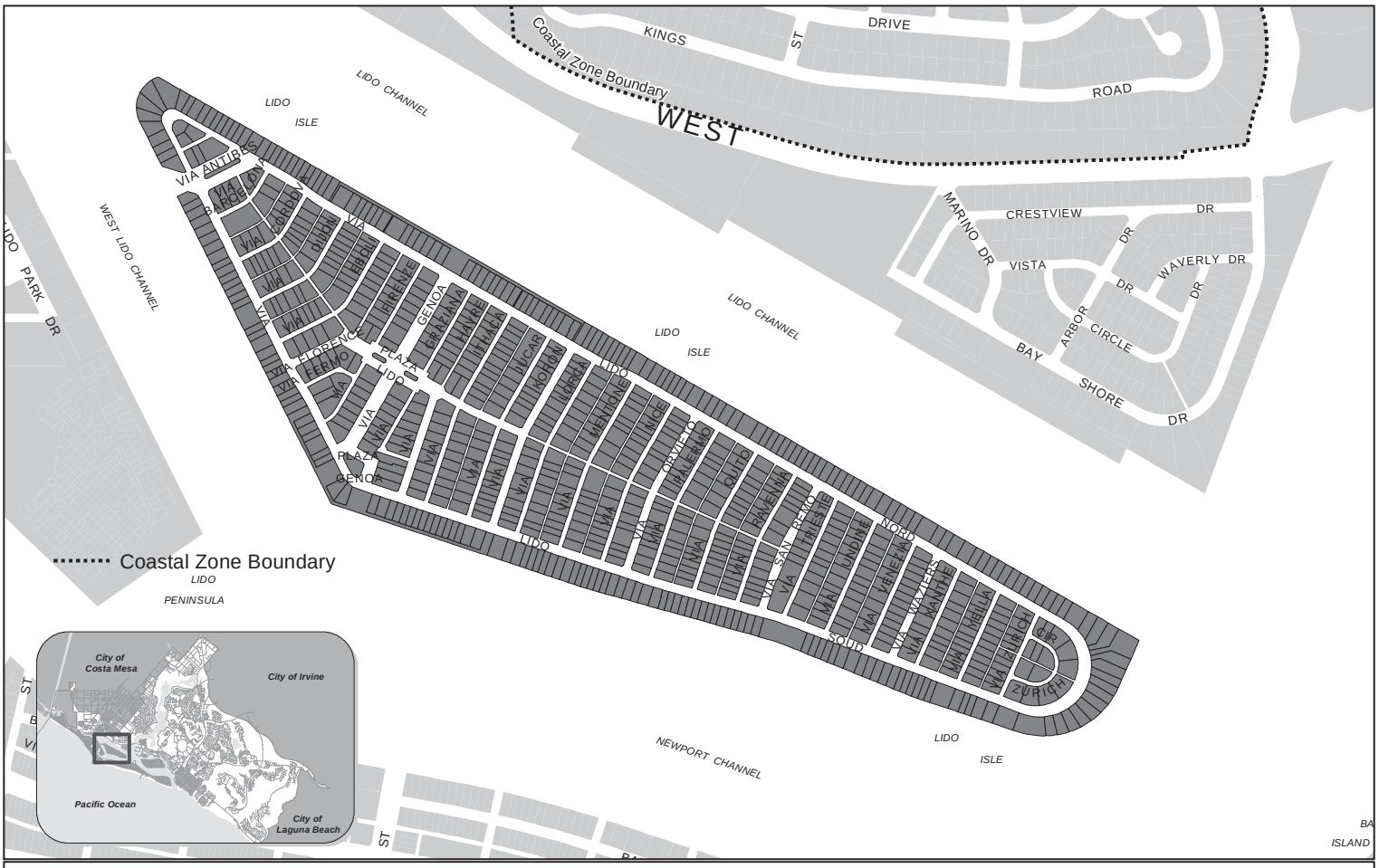
Name: A-8_Shorecliffs_IP / November 2015



A-9 Irvine Terrace DRAFT

0 800 1,600 Feet

Name: A-9_Irvine_Terrace_IP / November 2015



A-10 Lido Isle DRAFT

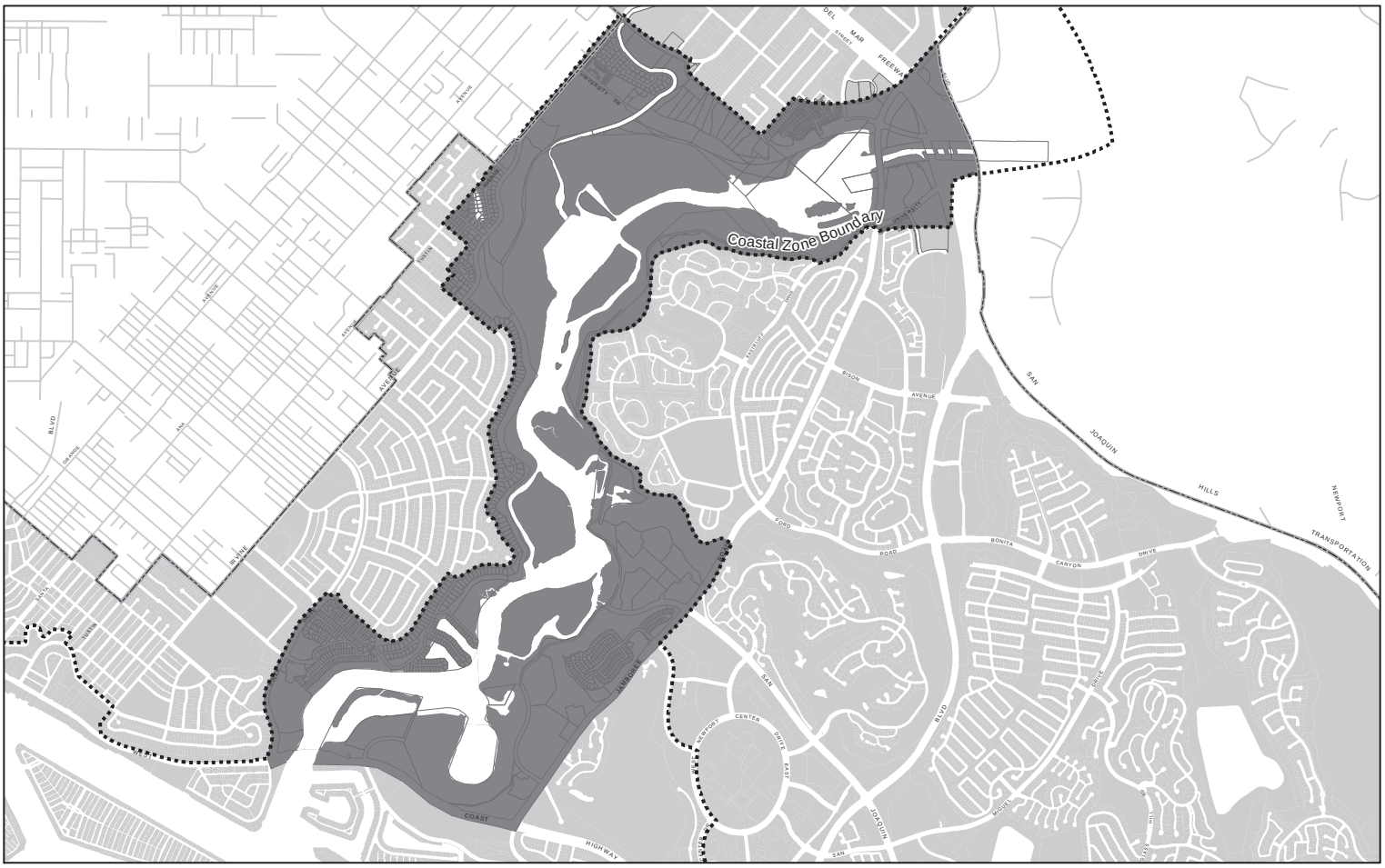
0 250 500 Feet

Name: A-10_Lido_Isle_IP / November 2015



A-11 Lido Marina Village / Mariners' Mile DRAFT

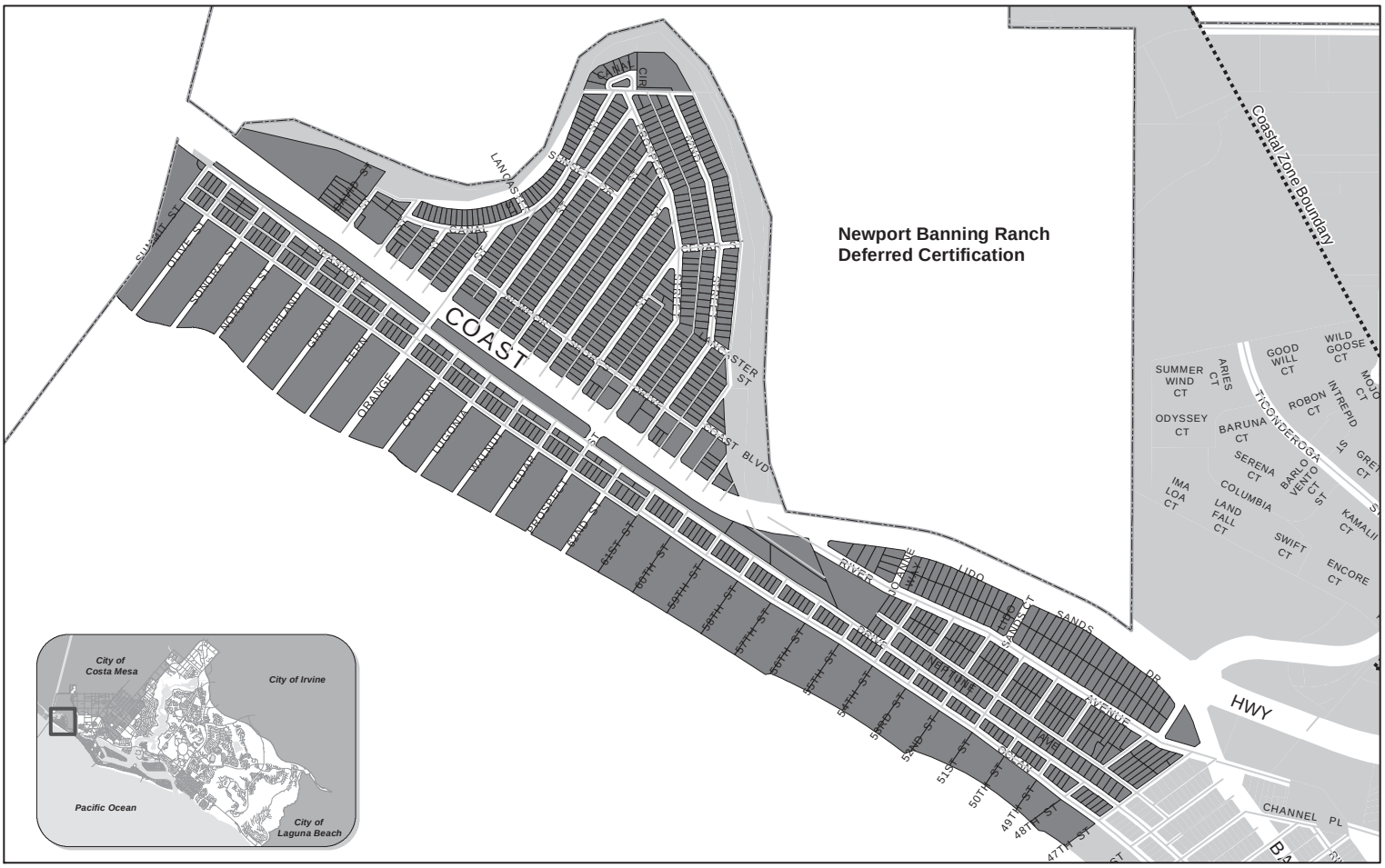
Name: A-11_Mariners_Mile_IP / November 2015



A-12- Upper Newport Bay DRAFT

0 0.25 0.5 1 Miles

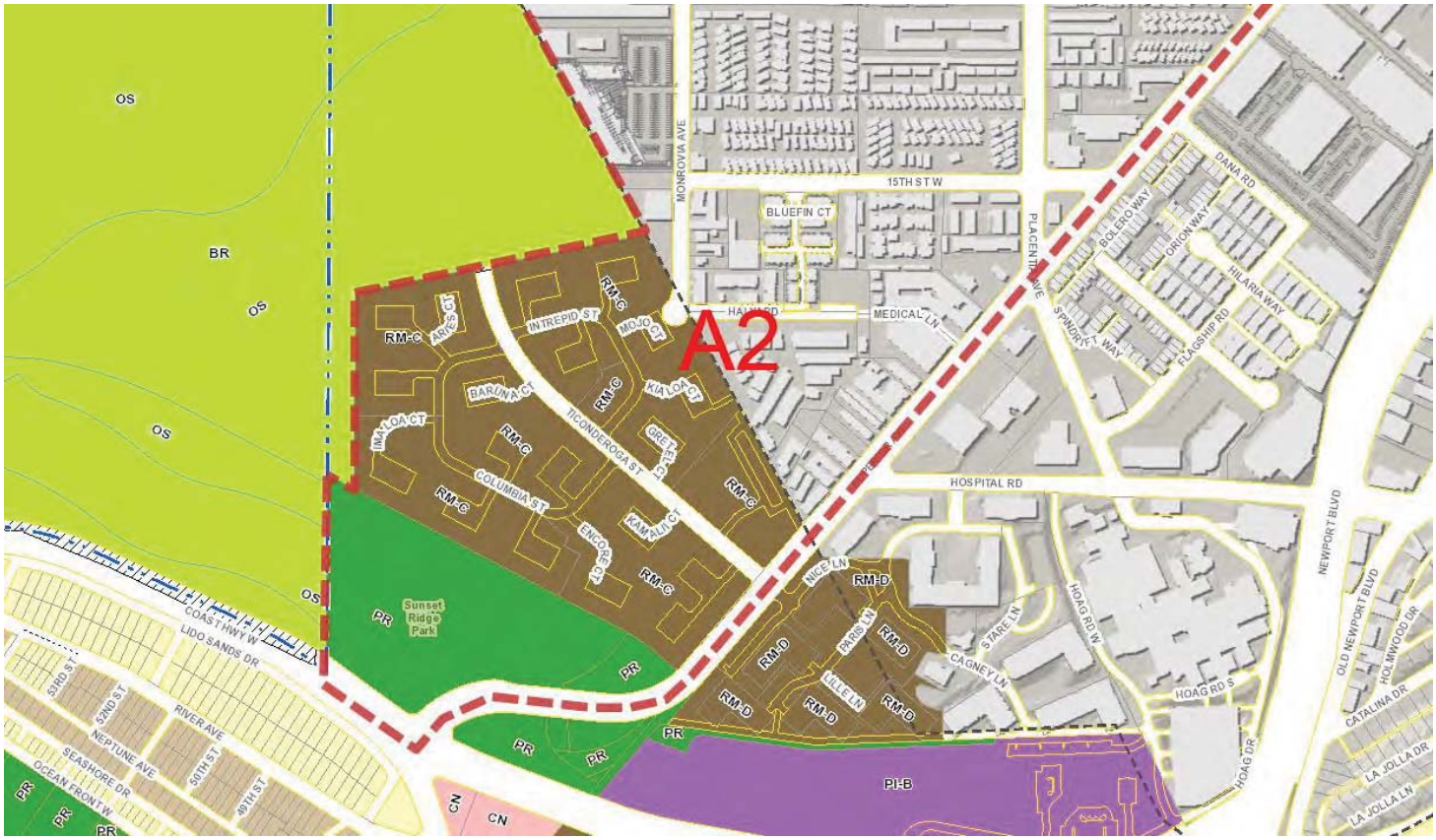
Name: A-12_Upper _NB-Bay_IP / November 2015



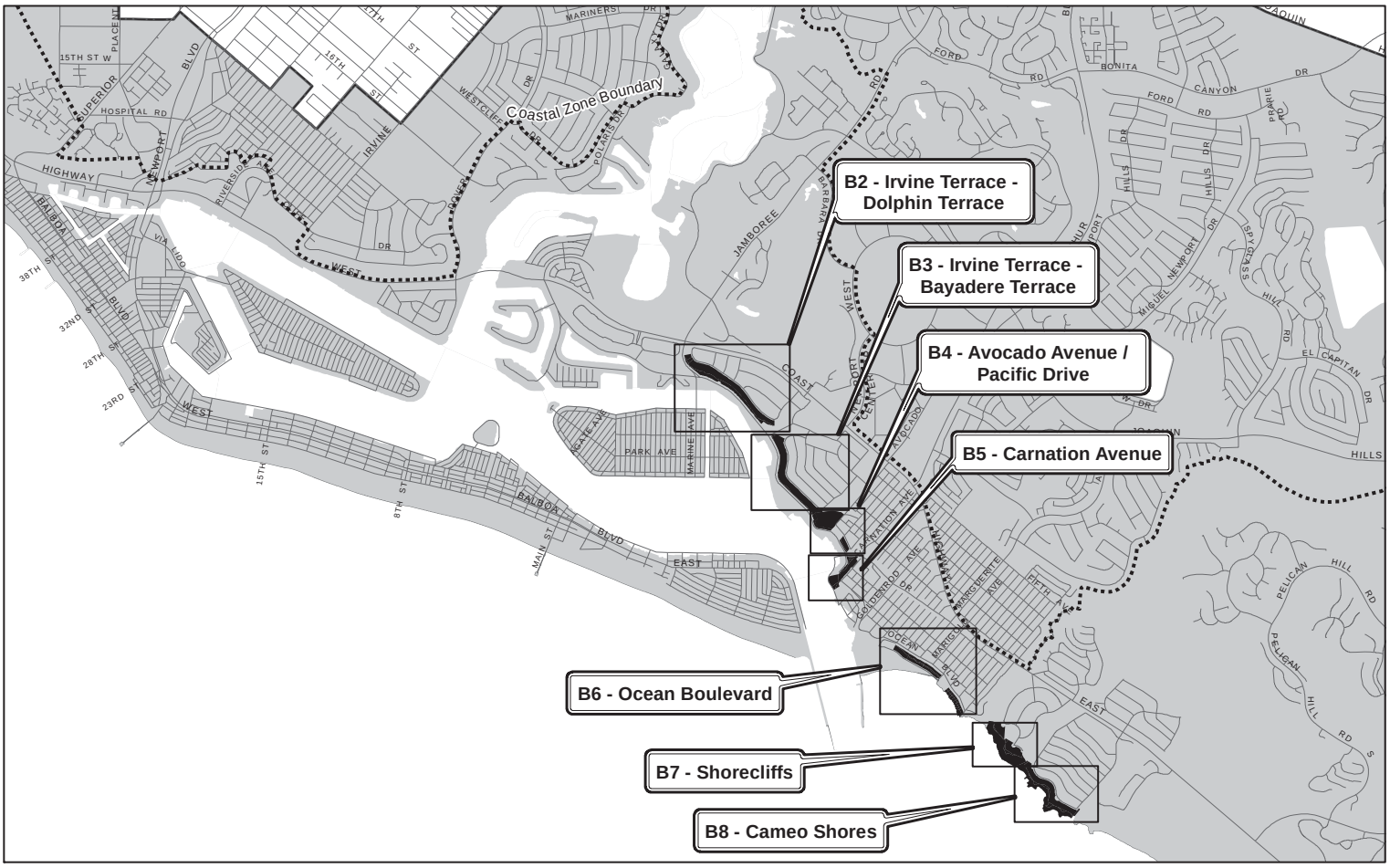
A-13 West Newport DRAFT

0 250 500 1,000 Feet

Name: A-13_West_Newport_IP / November 2015

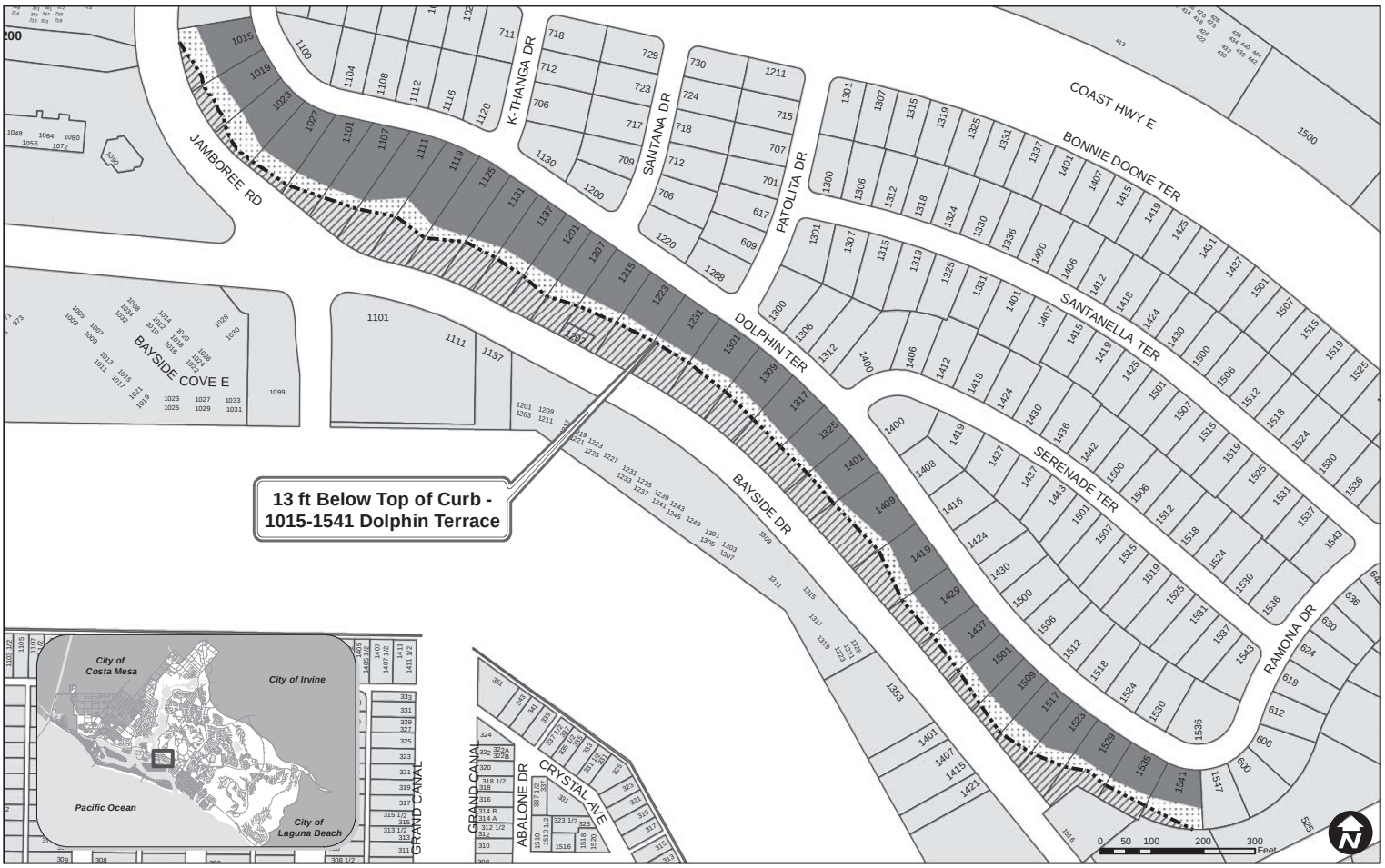


Statistical Area A2



Bluff Overlay Index Map DRAFT

Name: Bluff_Overlay_Index_Map_IP/ November 2015



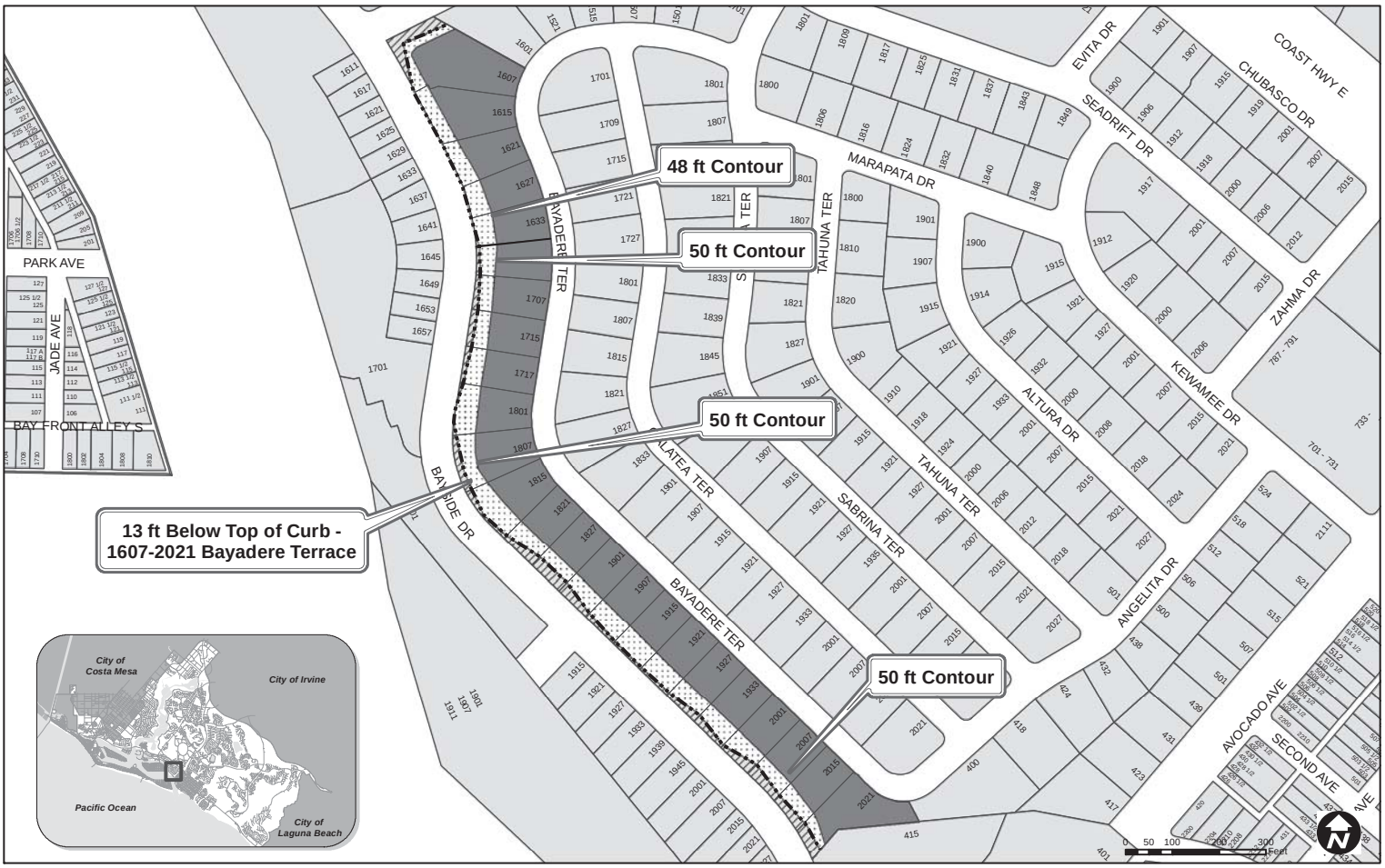
B-2 Irvine Terrace - Dolphin Terrace DRAFT

Development Areas Delineated By:

- Specified Distance from Front Property Line
- Specified Distance Below Top of Curb
- Specified Contour

- Development Area A
- Development Area B
- Development Area C

Name: B-2_Irvine_Ter_Dolphin_Ter_IP/ November 2015



B-3 Irvine Terrace - Bayadere Terrace DRAFT

Development Areas Delineated By:

- Specified Distance from Front Property Line
- Specified Feet Below Top of Curb
- Specified Contour

- Development Area A
- Development Area B
- Development Area C

Name: B-3_Irvine_Ter_Bayader_Ter_IP/ November 2015

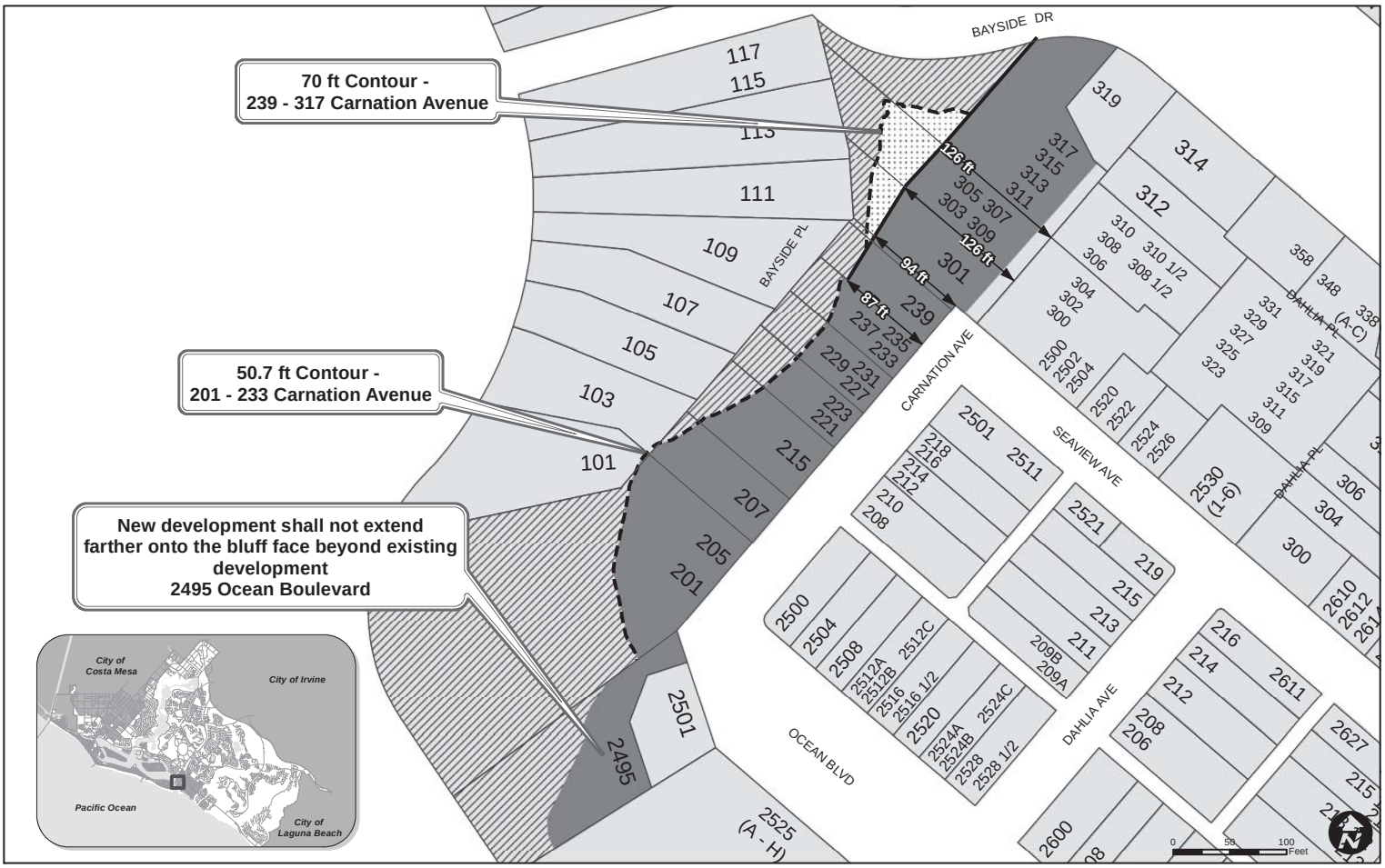


B-4 Avocado Avenue / Pacific Drive DRAFT

Development Areas Delineated By:

- Specified Distance from Front Property Line
- Specified Distance Below Top of Curb
- Specified Contour
- Development Area A
- Development Area B
- Development Area C

Name: B-4_Avocado_Av_Pacific_Dr_IP/ November 2015



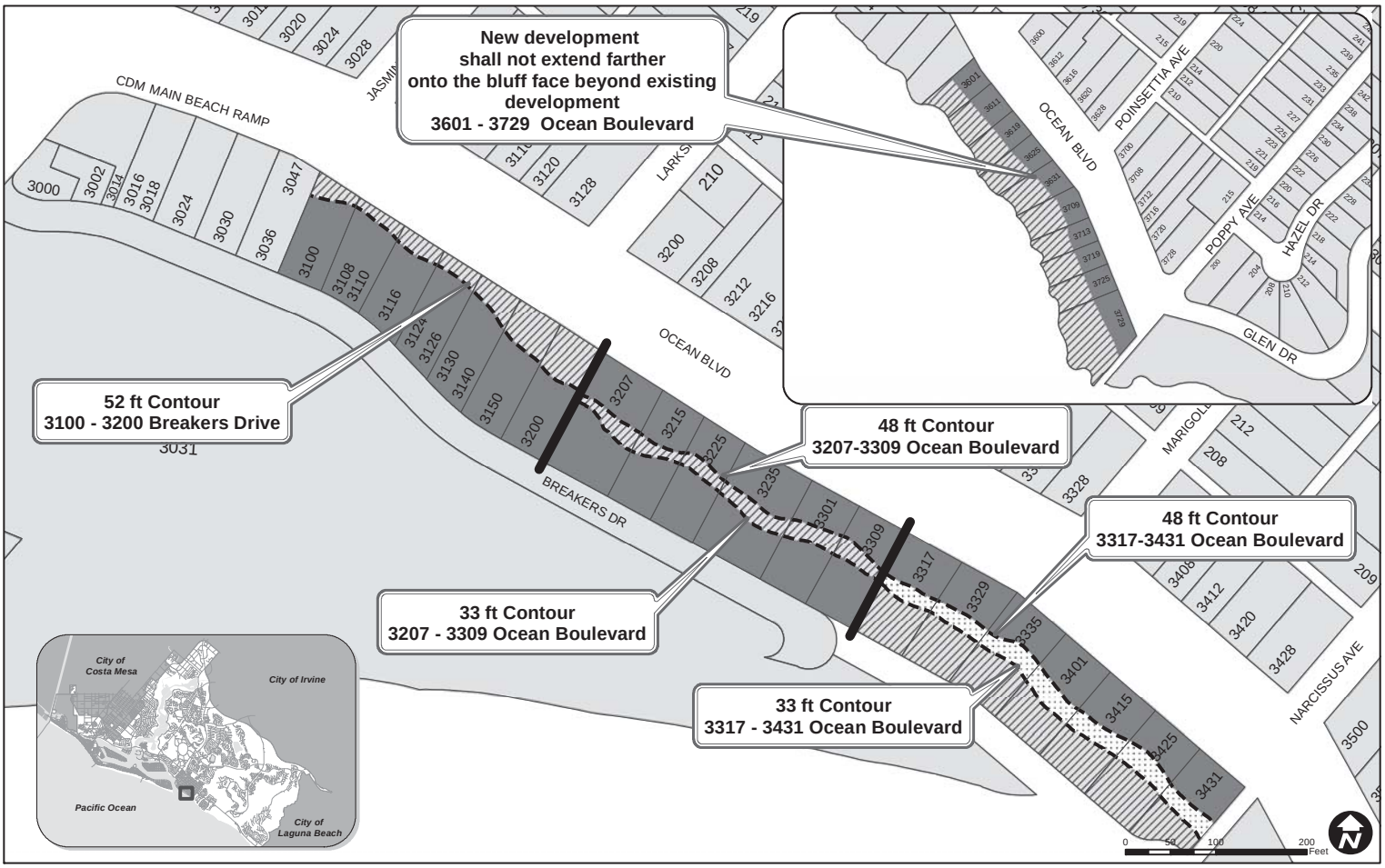
B-5 Carnation Avenue DRAFT

Development Areas Delineated By:

- Specified Distance from Front Property Line
- Specified Distance Below Top of Curb
- Specified Contour

- Development Area A
- Development Area B
- Development Area C

Name: B-5_Carnation_Avenue_IP/ November 2015



B-6 Ocean Boulevard / Breakers Drive DRAFT

Development Areas Delineated By:
- Specified Distance from Front Property Line
- Specified Distance Below Top of Curb
- Specified Contour

- Development Area A
- Development Area B
- Development Area C
- GIS_SDE.PlanningInformation

Name: B-6_Ocean_Blvd_IP/ November 2015



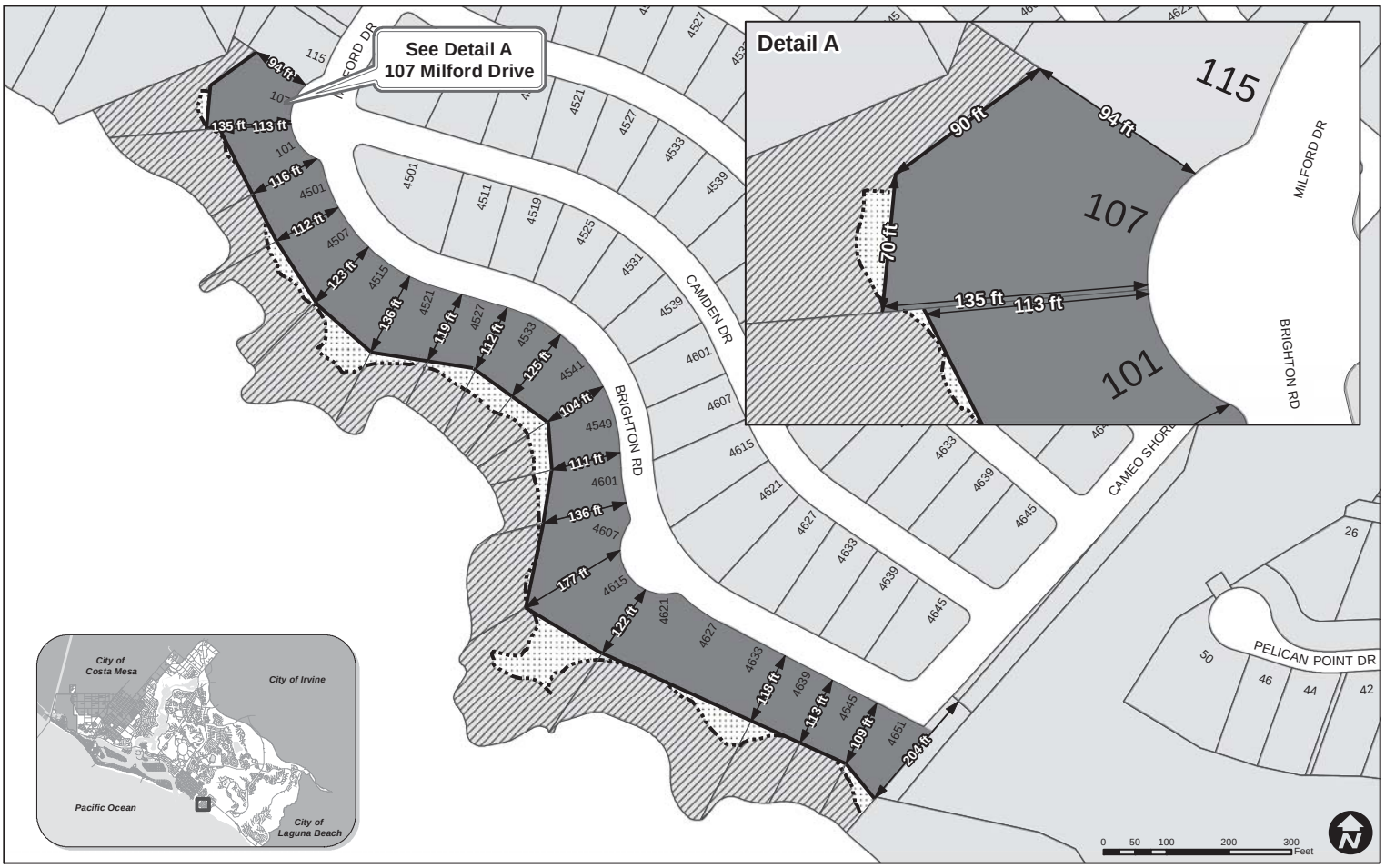
B-7 Shorecliffs DRAFT

Development Areas Delineated By:

- Specified Distance from Front Property Line
- 10 Feet From Bluff Edge
- Specified Contour

- Development Area A
- Development Area B
- Development Area C

Name: B-7_Shorecliffs_IP/ November 2015



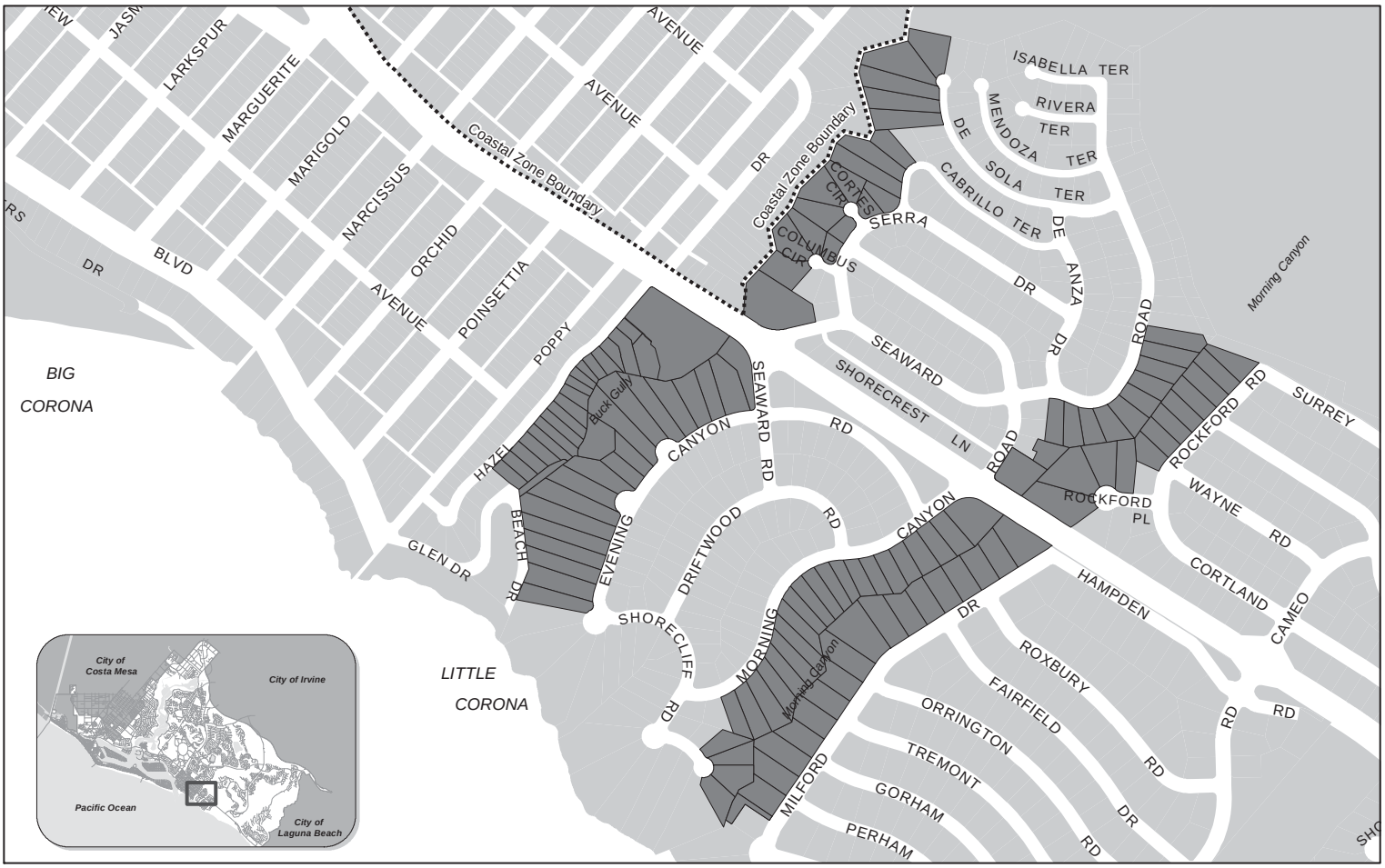
B-8 Cameo Shores DRAFT

Development Areas Delineated By:
- Specified Distance from Front Property Line
- 10 Feet From Bluff Edge
- Specified Contour

- Development Area A
- Development Area B
- Development Area C

Name: B-8_Cameo_Shores_IP/ November 2015

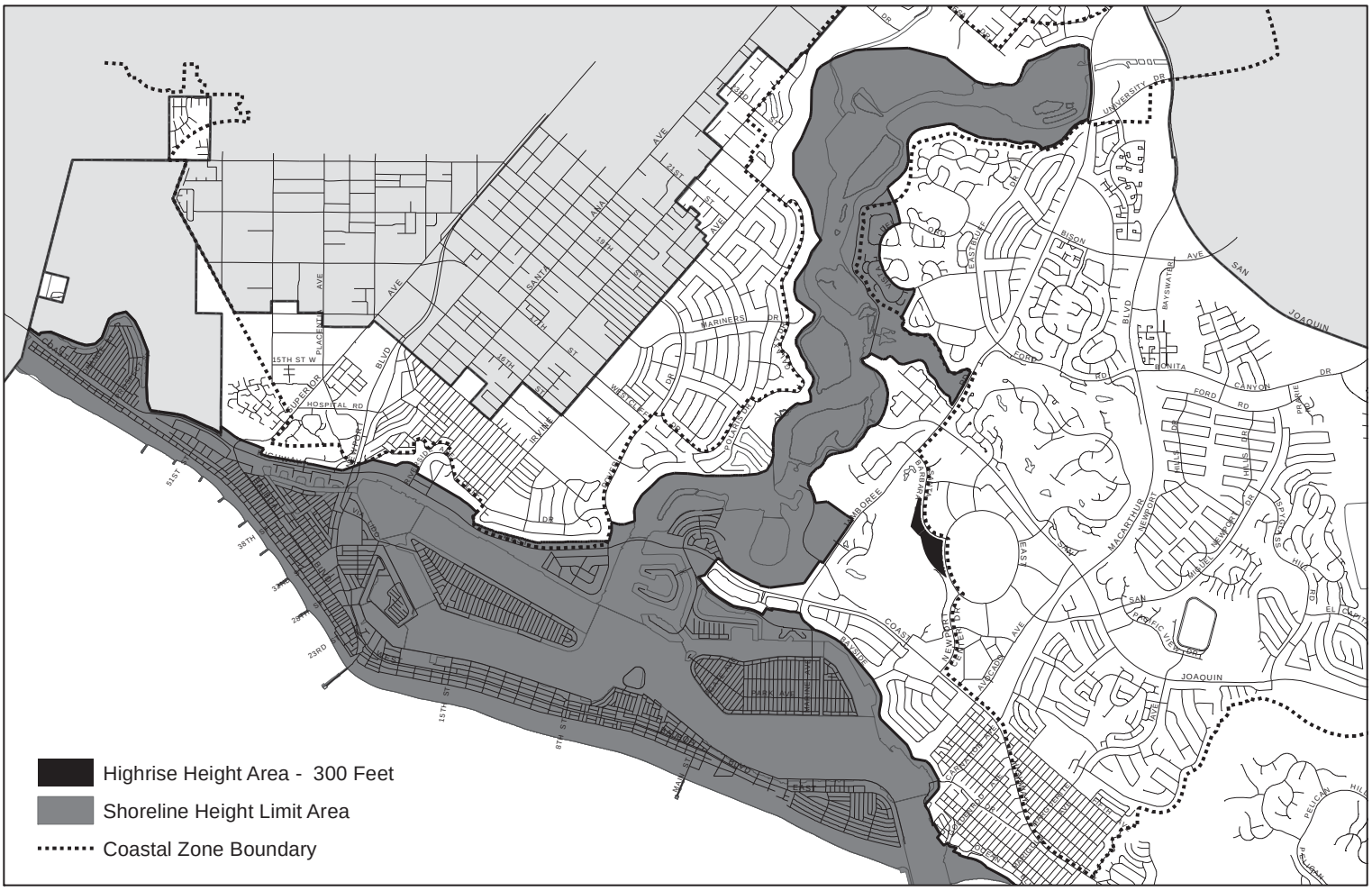
Commission Suggested Modification:
Add New Map B-9 Upper Newport Bay Bluffs



C-1 Canyon Overlay
(Buck Gully and Morning Canyon) DRAFT

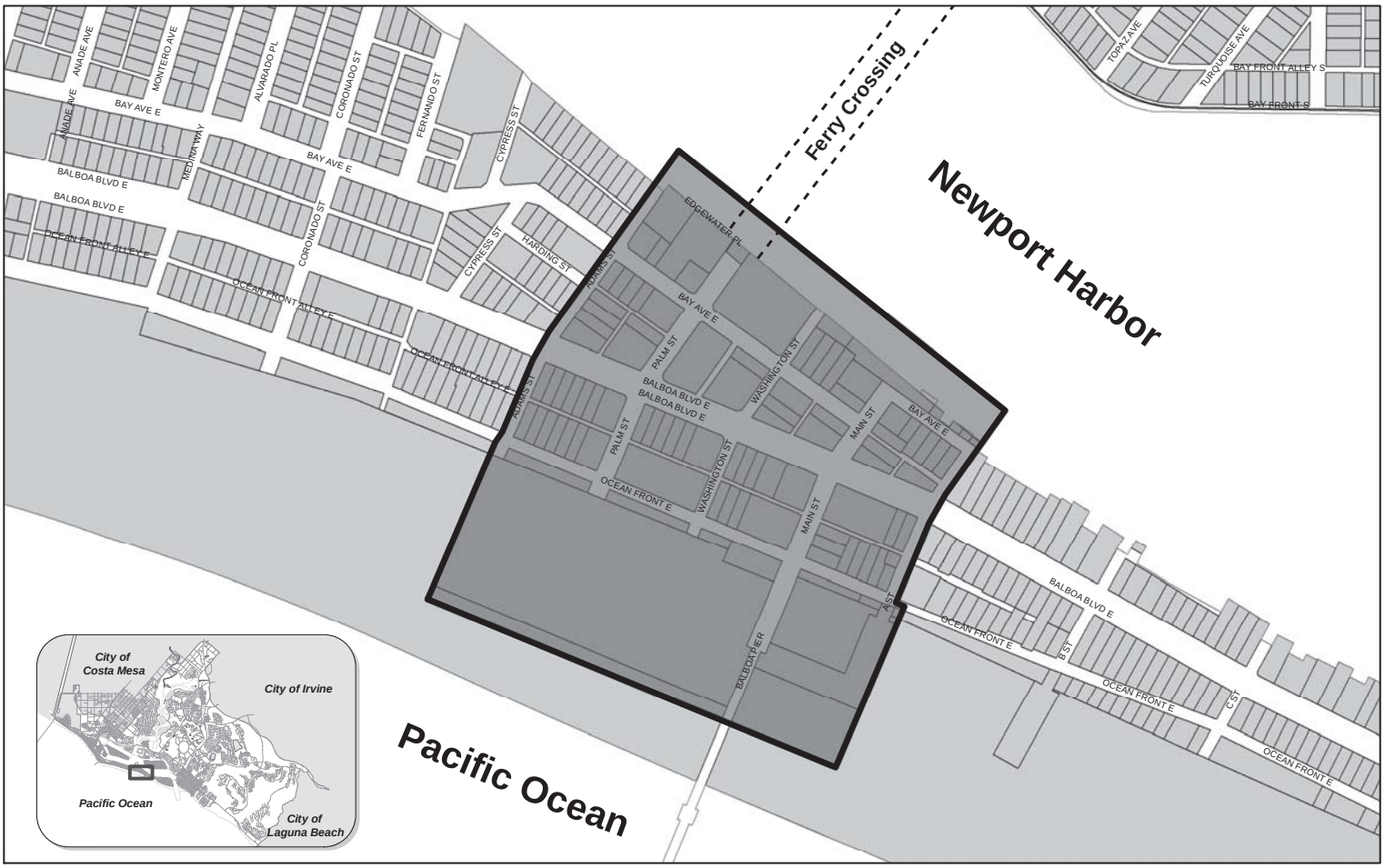
0 250 500 Feet

Name: C-1_Canyon Overlay_IP / November 2015



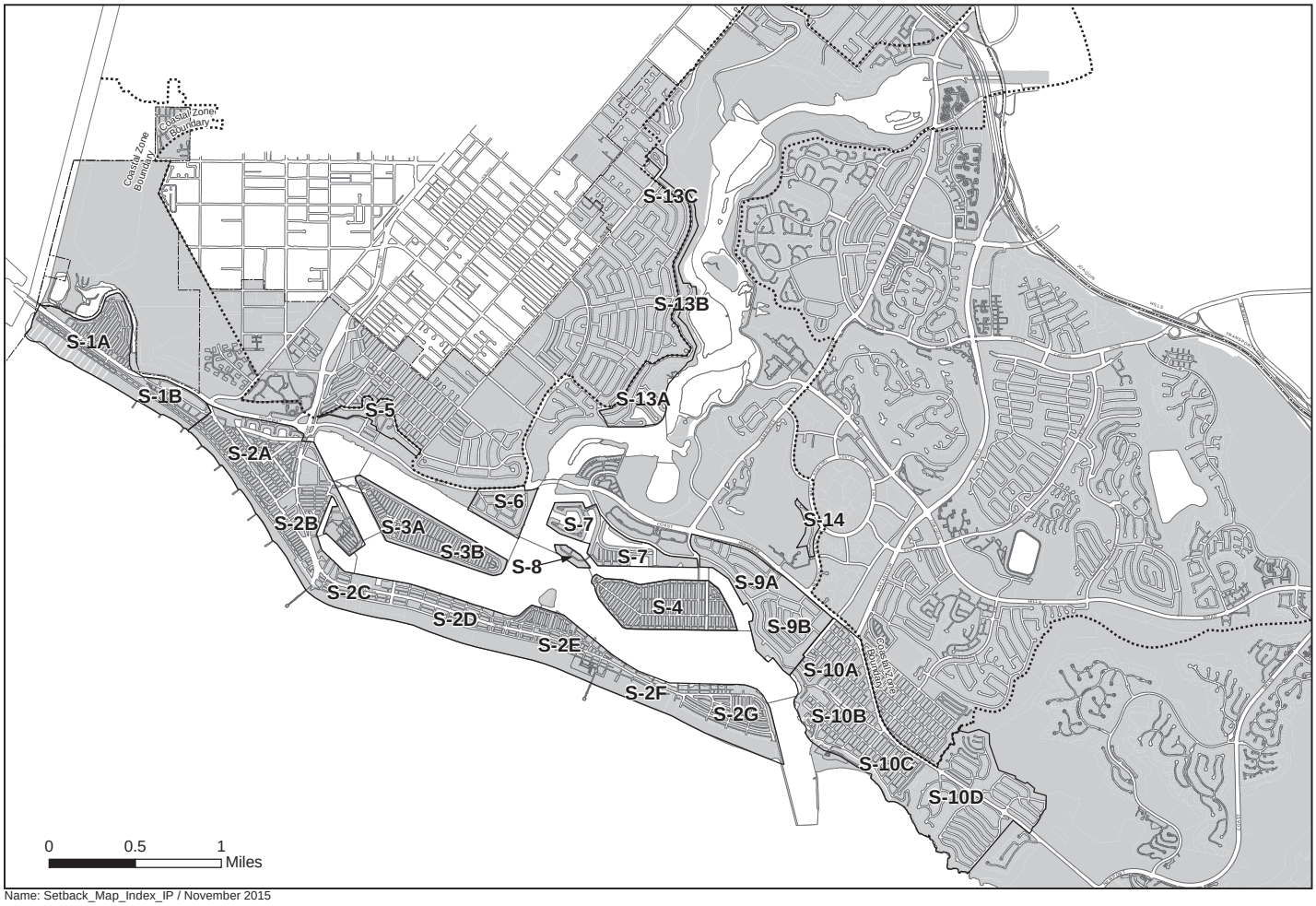
H-1 High Rise and Shoreline Height Limit Areas DRAFT

Name: H1_Shoreline_Height_IP/ November 2015



PM-1 Balboa Village Parking Management Plan Overlay District DRAFT

Name: PM-1_Balboa_Village / November 2015



Name: Setback_Map_Index_IP / November 2015

Setback Map

Index Map DRAFT

Name: S-1A_IP / November 2015

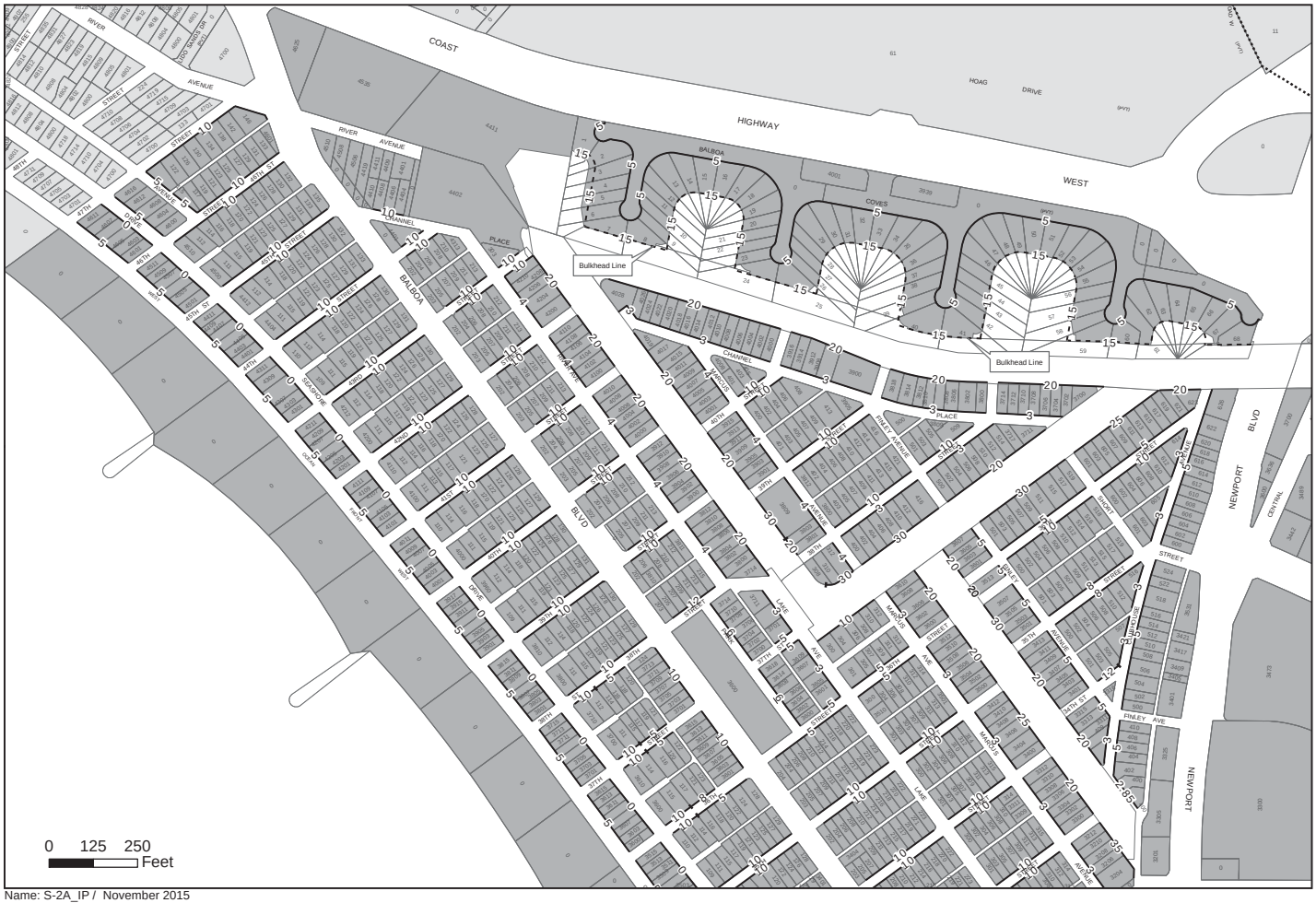
S-1A - West Newport **DRAFT**

Setback Map

Name: S-1B_IP / November 2015

S-1B - West Newport DRAFT

Setback Map



Name: S-2A_IP / November 2015

S-2A - Balboa Peninsula **DRAFT**

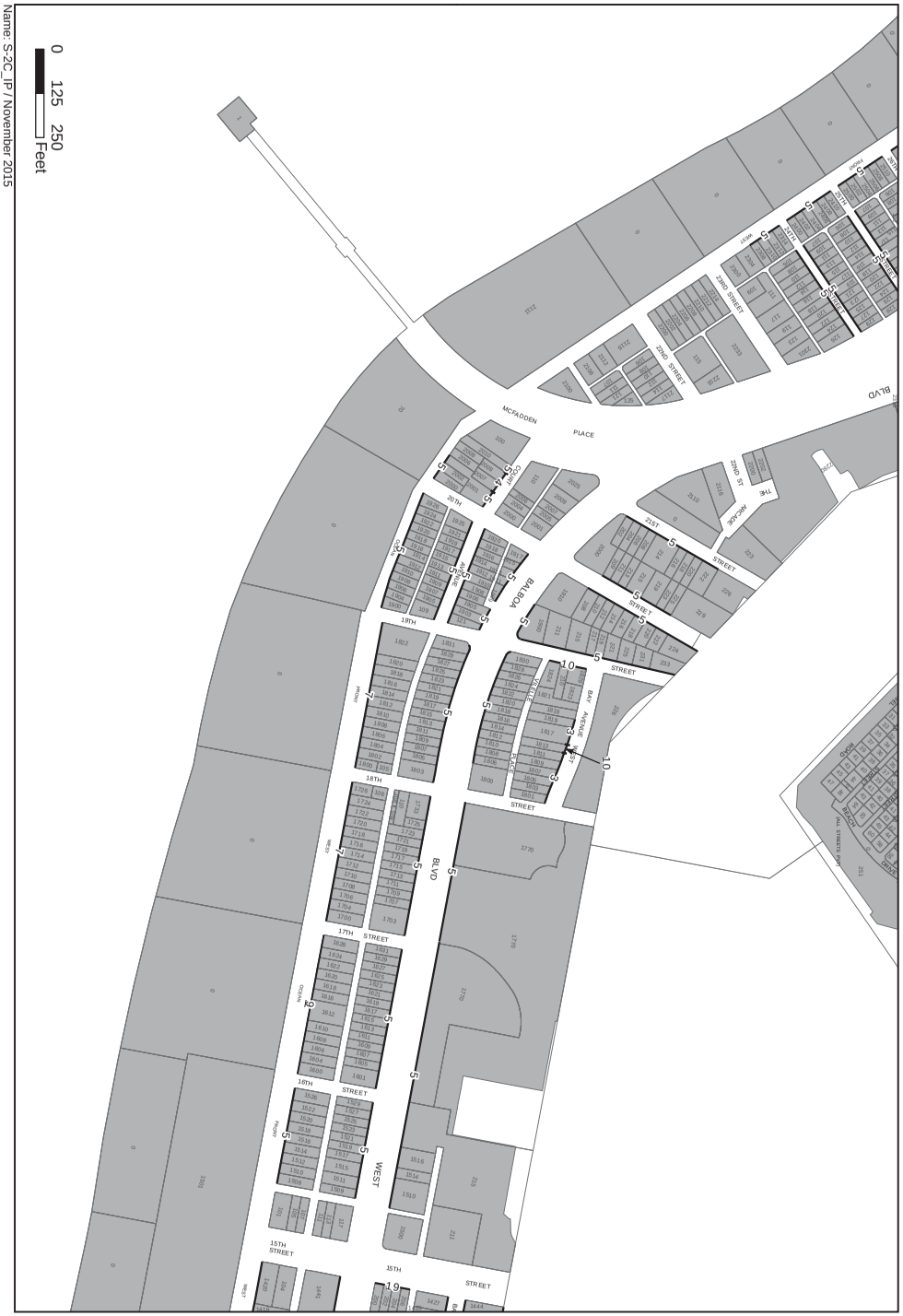
Setback Map



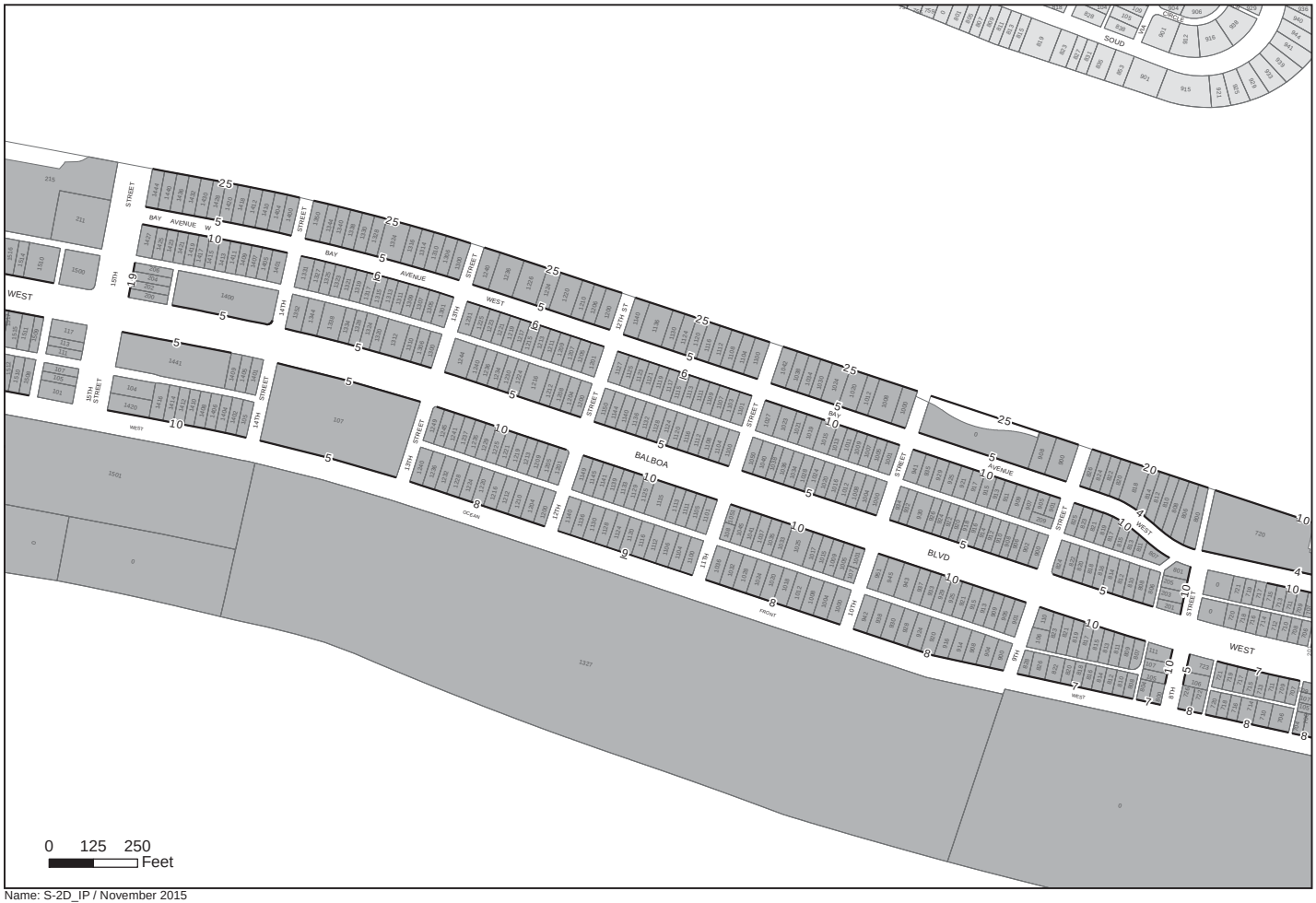
Name: S-2B_IP / November 2015

S-2B - Balboa Peninsula **DRAFT**

Setback Map



S-2C - Balboa Peninsula **DRAFT** Setback Map



Name: S-2D_IP / November 2015

S-2D - Balboa Peninsula DRAFT

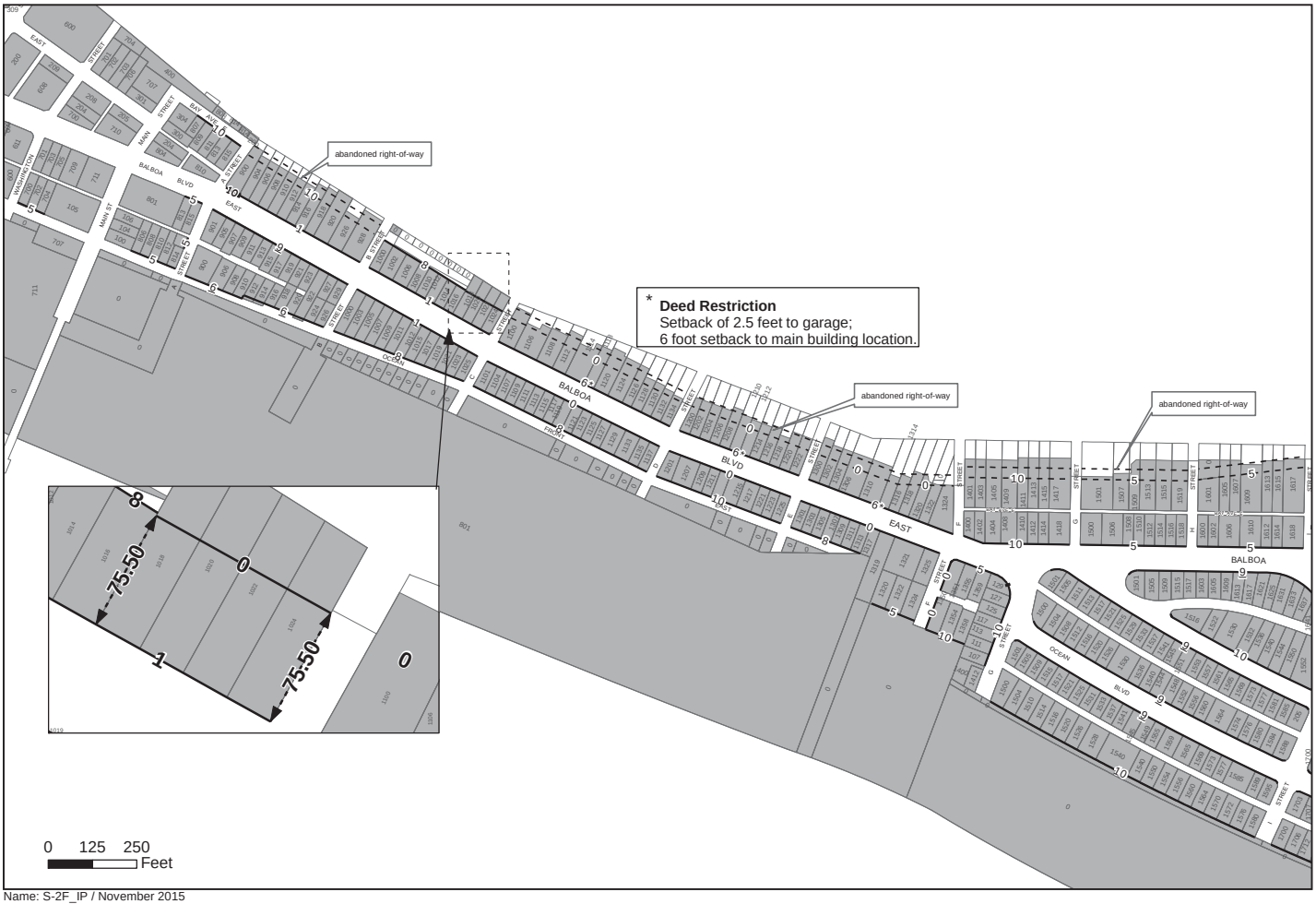
Setback Map



Name: S-2E_IP / November 2015

S-2E - Balboa Peninsula DRAFT

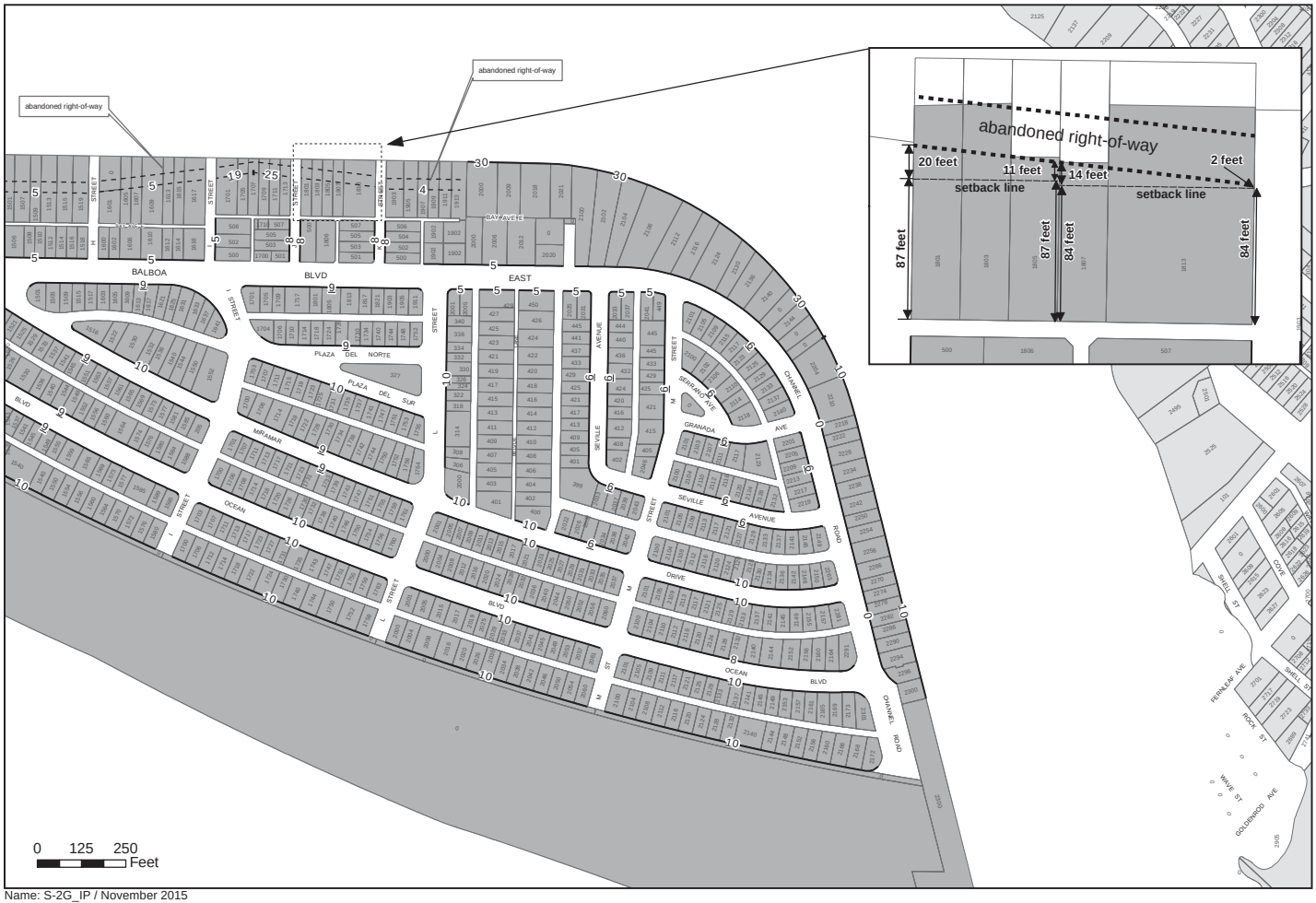
Setback Map



Name: S-2F_IP / November 2015

S-2F - Balboa Peninsula **DRAFT**

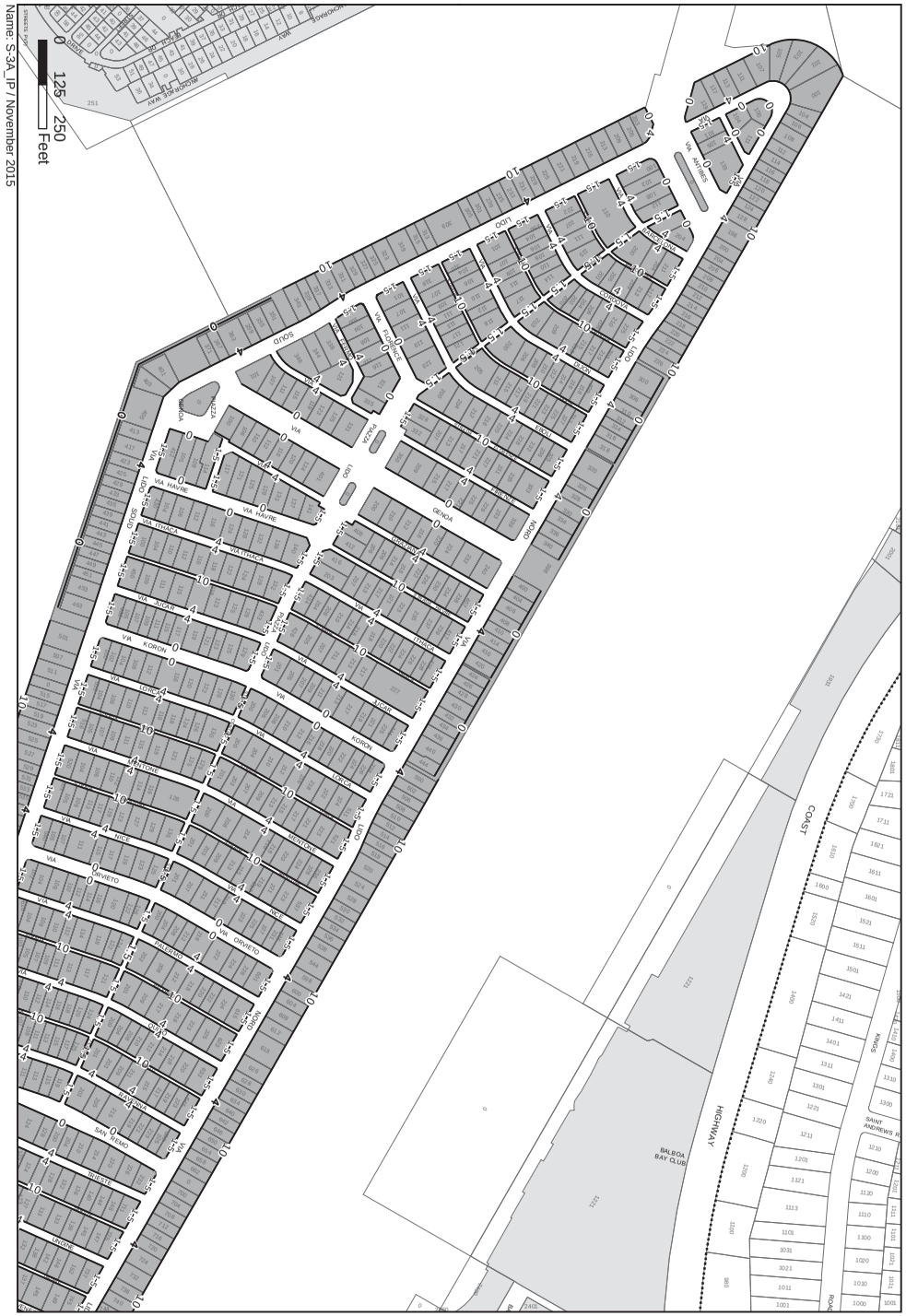
Setback Map



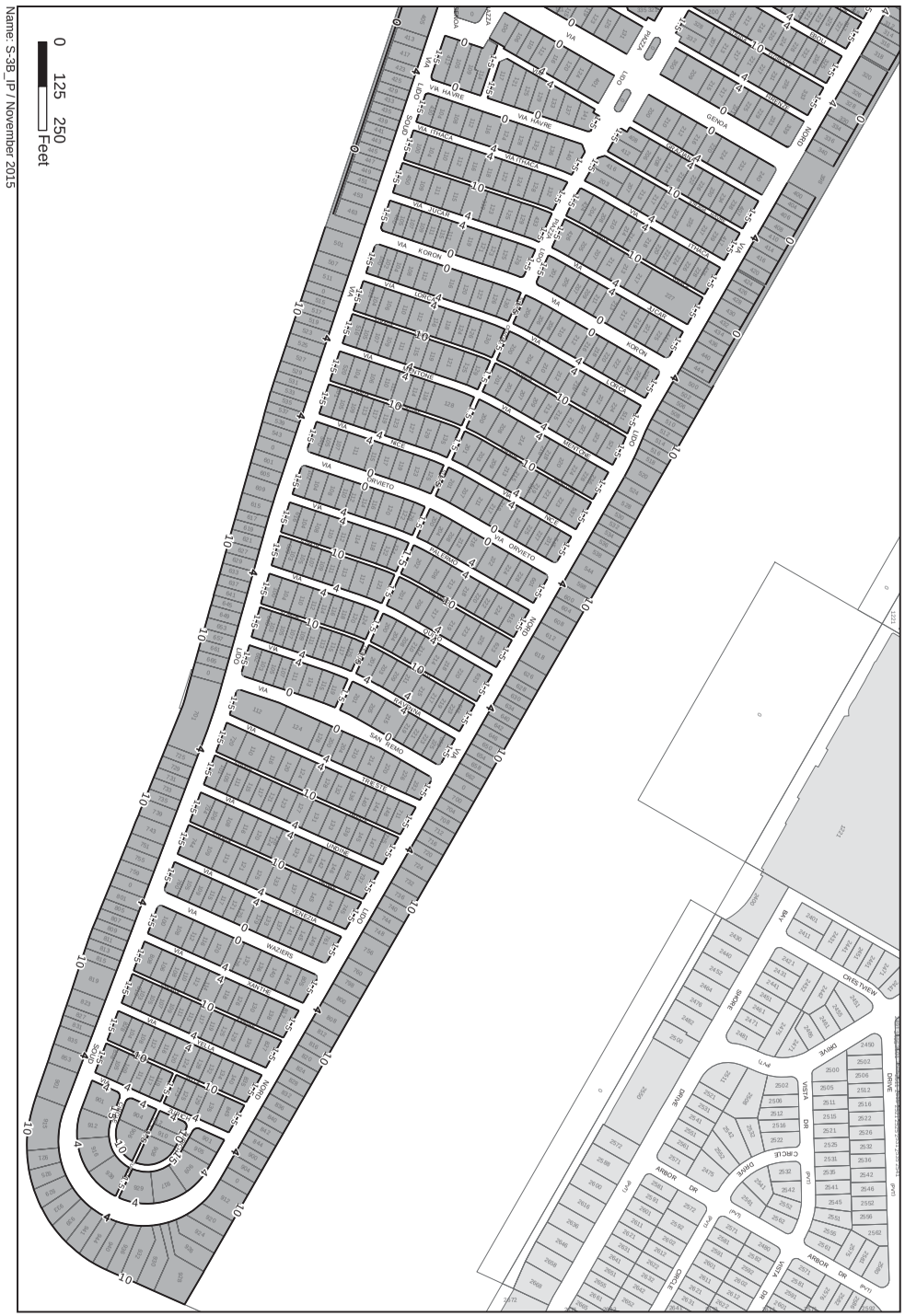
Name: S-2G_IP / November 2015

S-2G - Balboa Peninsula **DRAFT**

Setback Map

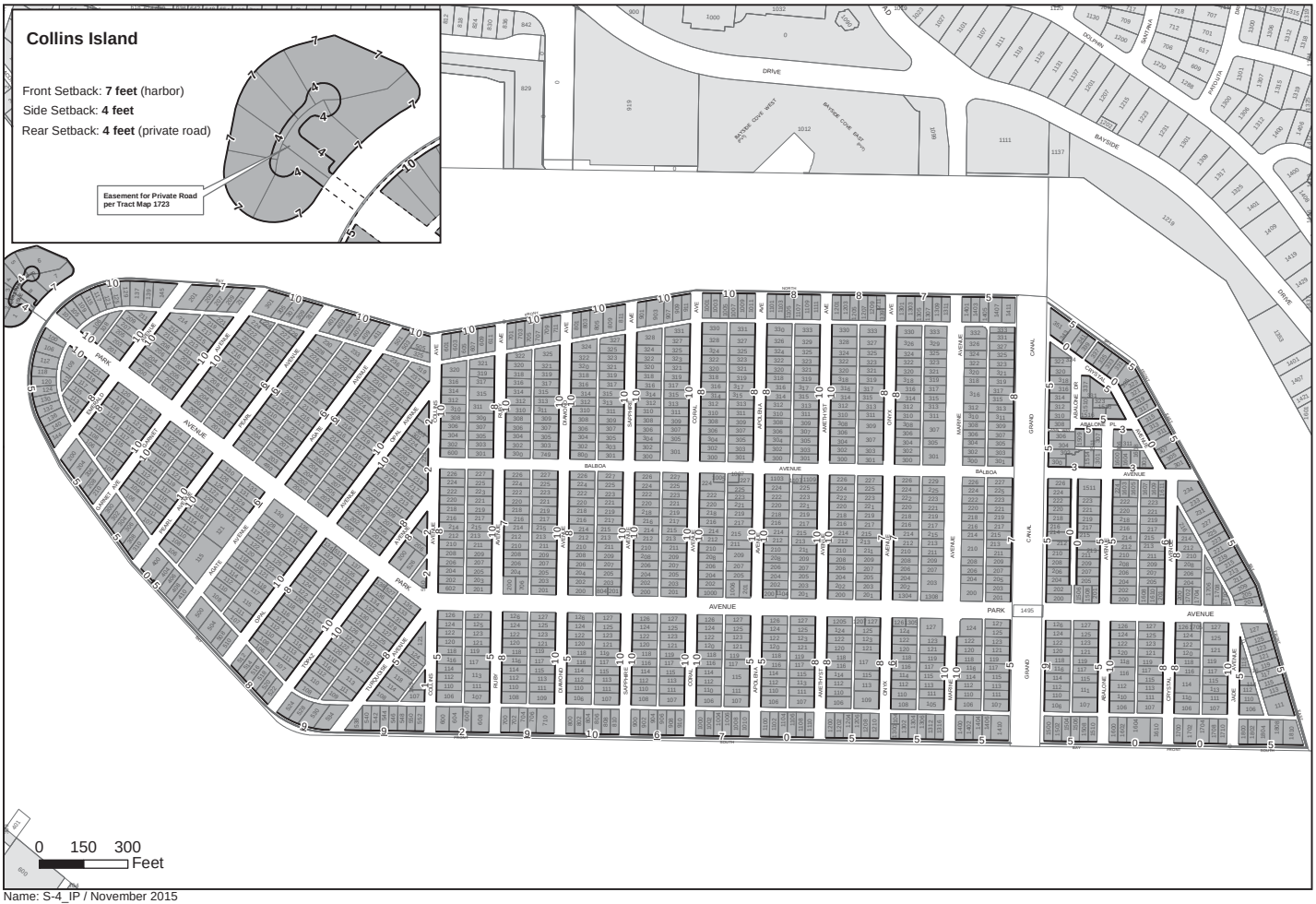


S-3A - Lido Isle **DRAFT** Setback Map



S-3B - Lido Isle **DRAFT**

Setback Map

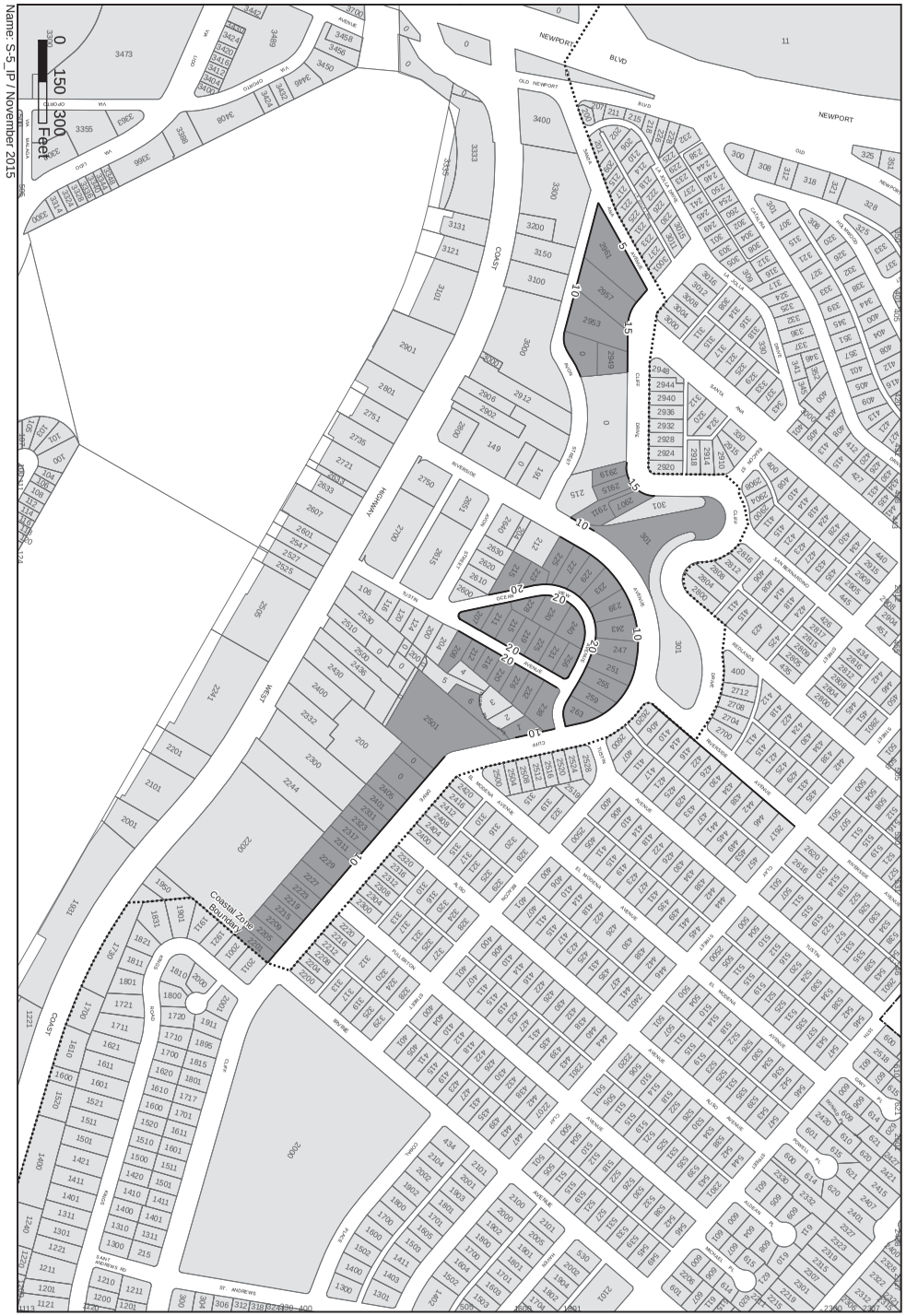


Name: S-4_IP / November 2015

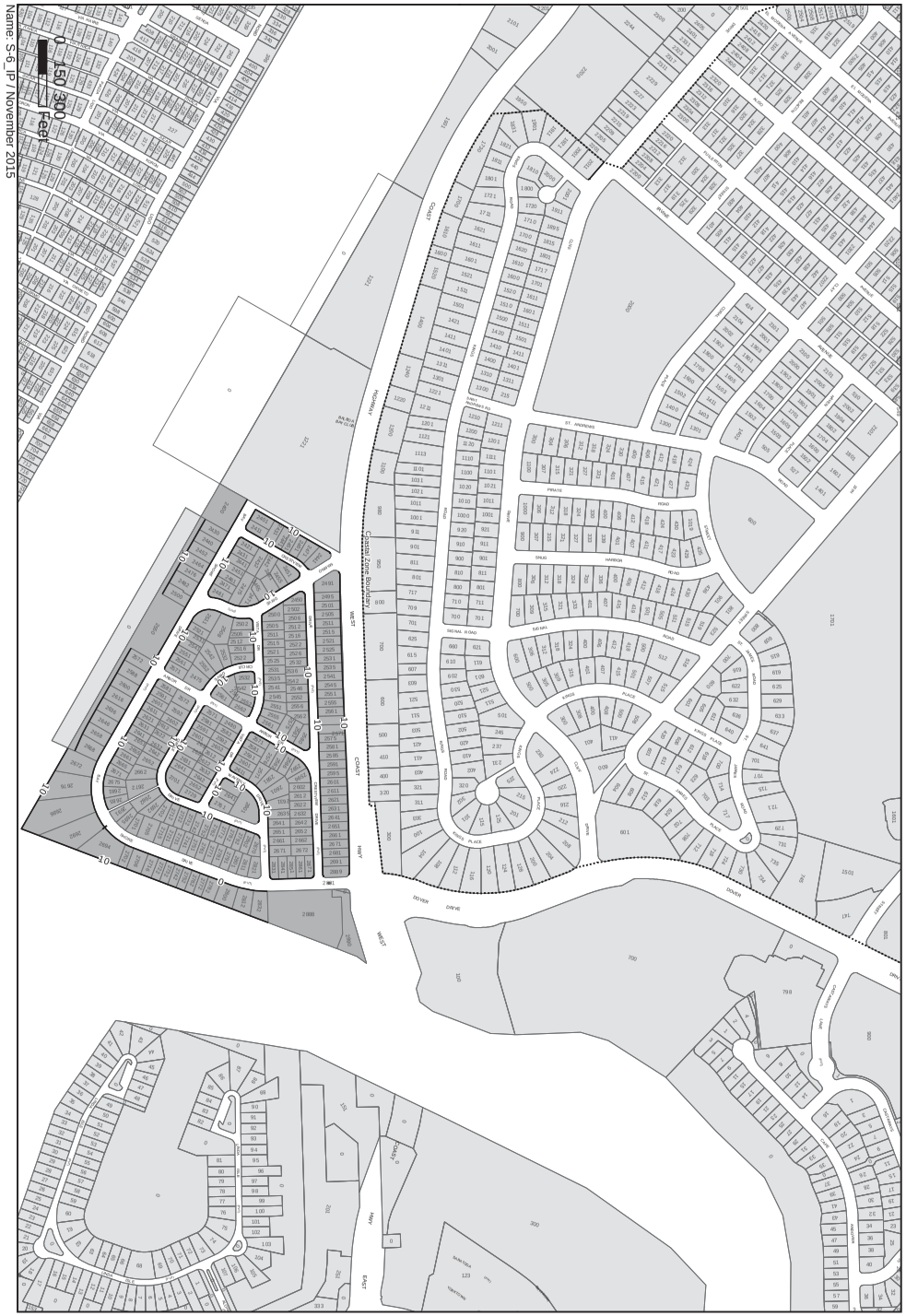
S-4 - Balboa Island

DRAFT

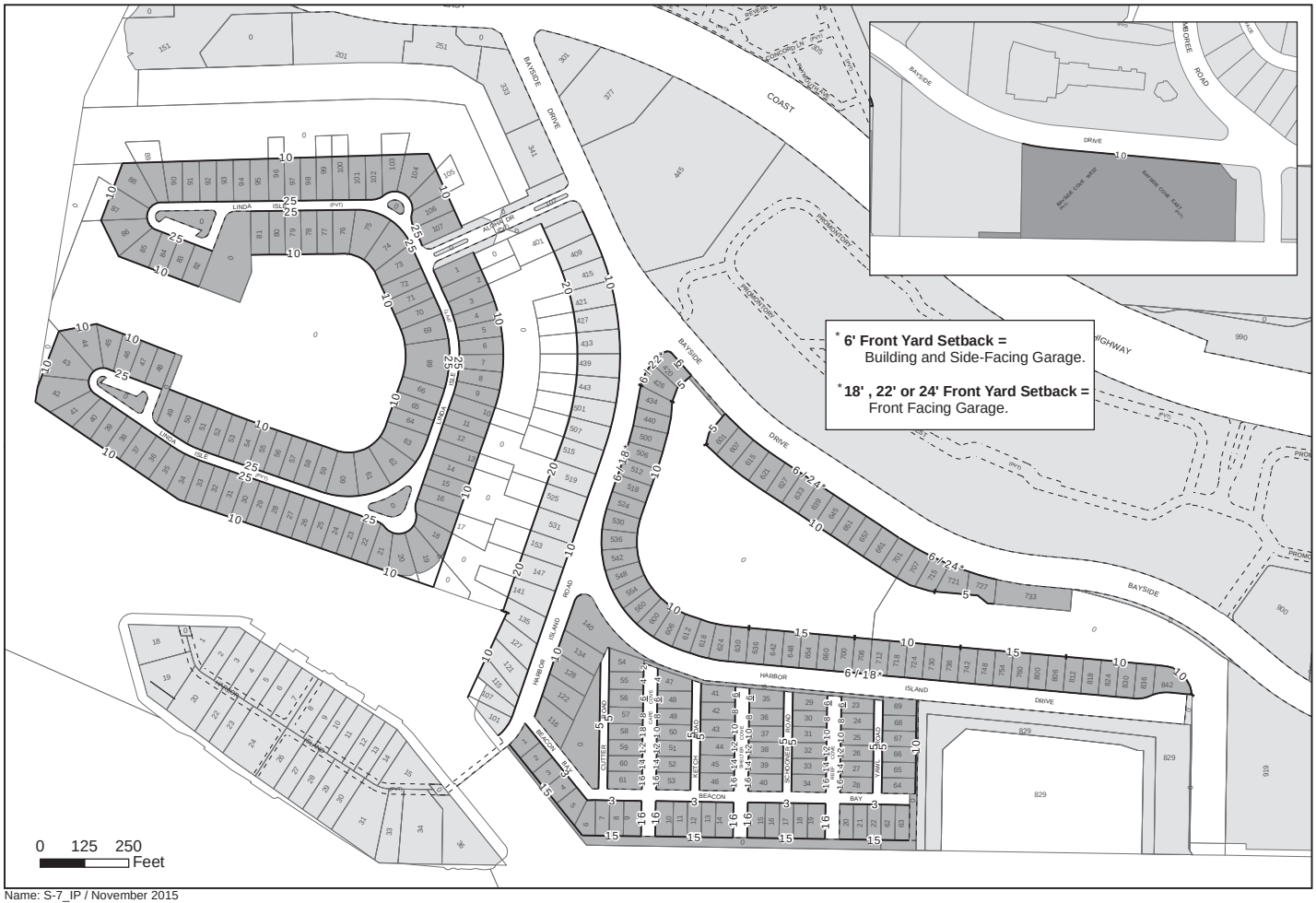
Setback Map



S-5 - Newport Heights **DRAFT** Setback Map



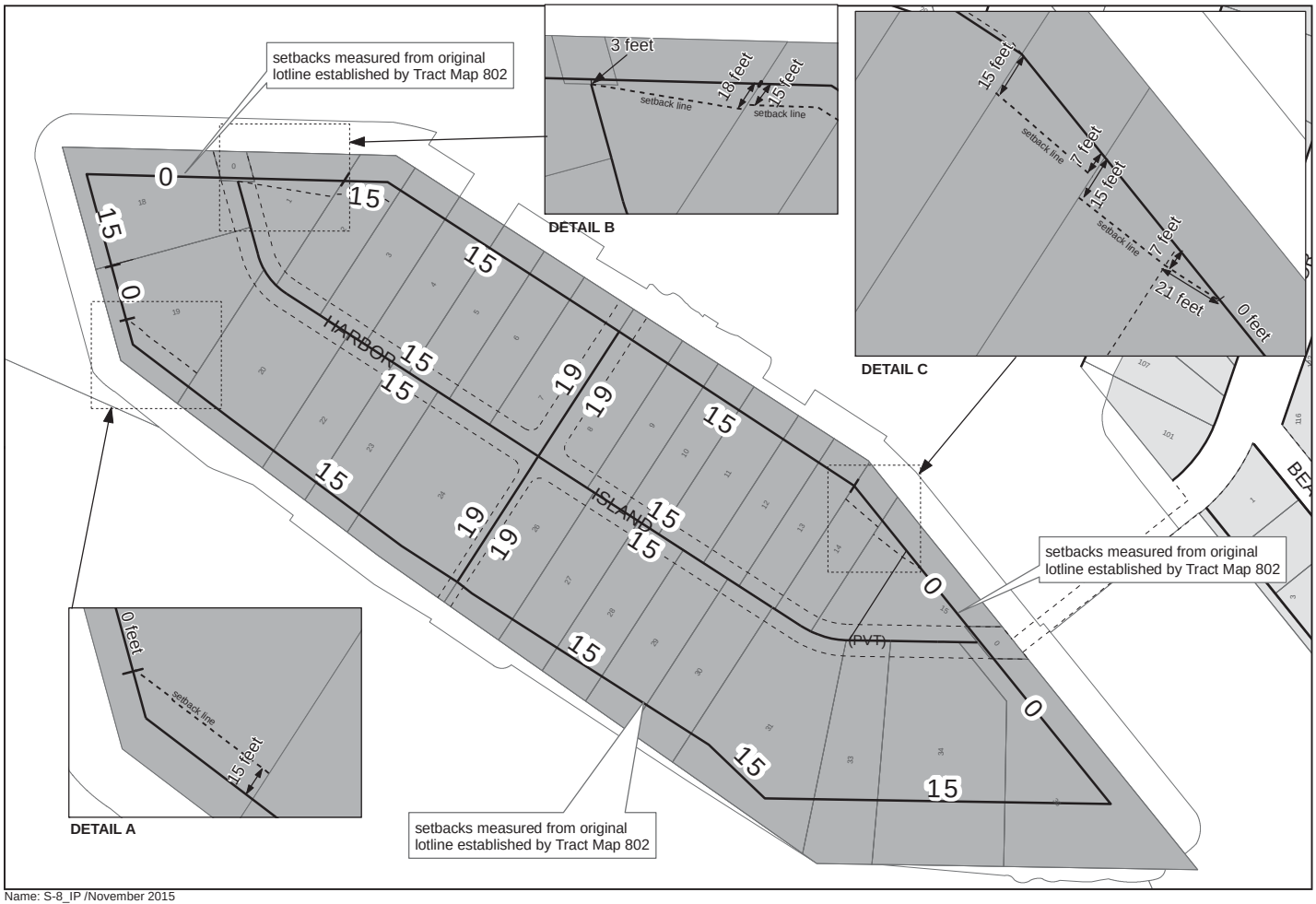
S-6 - Bay Shores **DRAFT** Setback Map



Name: S-7_IP / November 2015

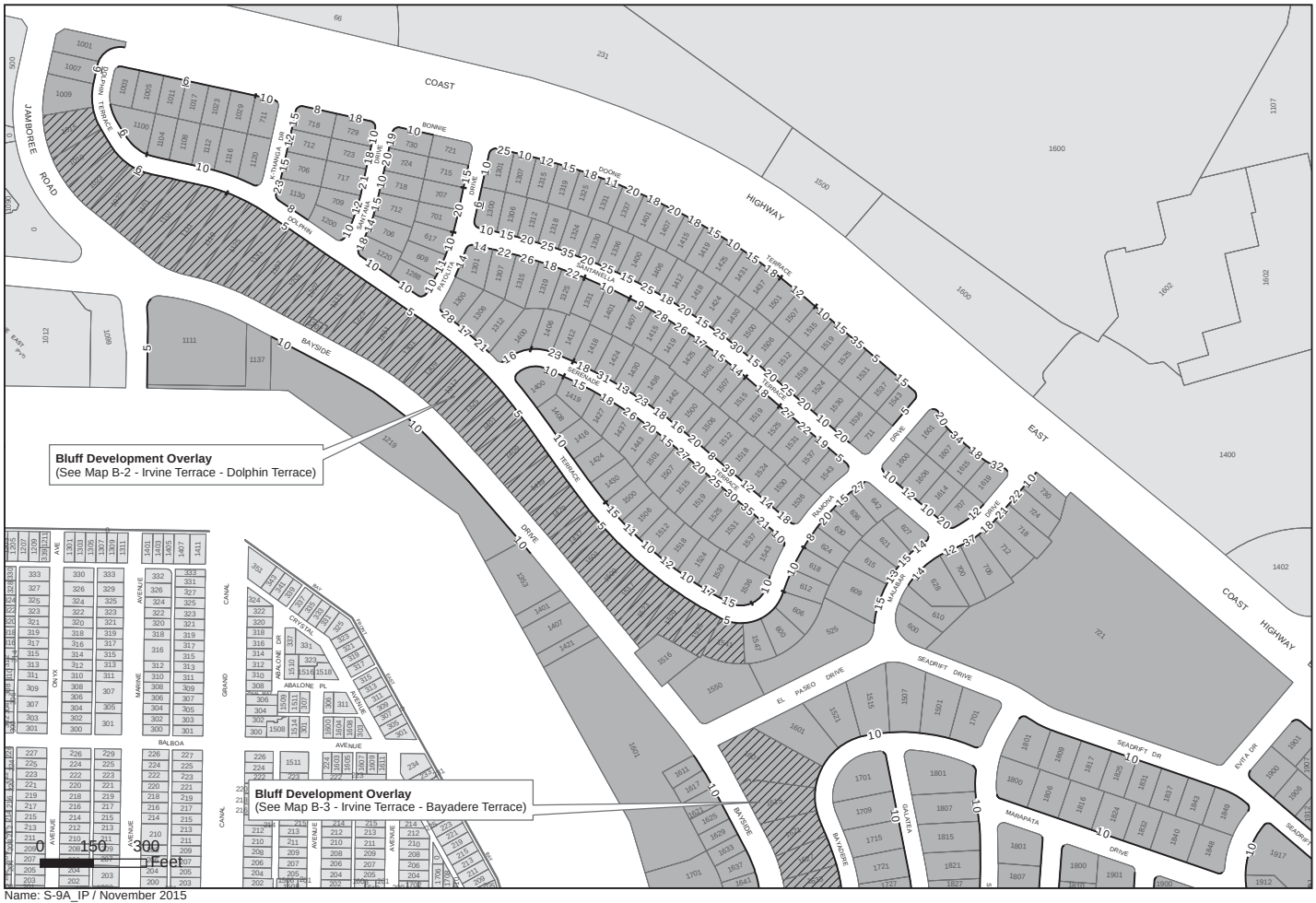
S-7 - Beacon Bay Area **DRAFT**

Setback Map



S-8 - Harbor Island DRAFT Setback Map

Name: S-8_IP /November 2015

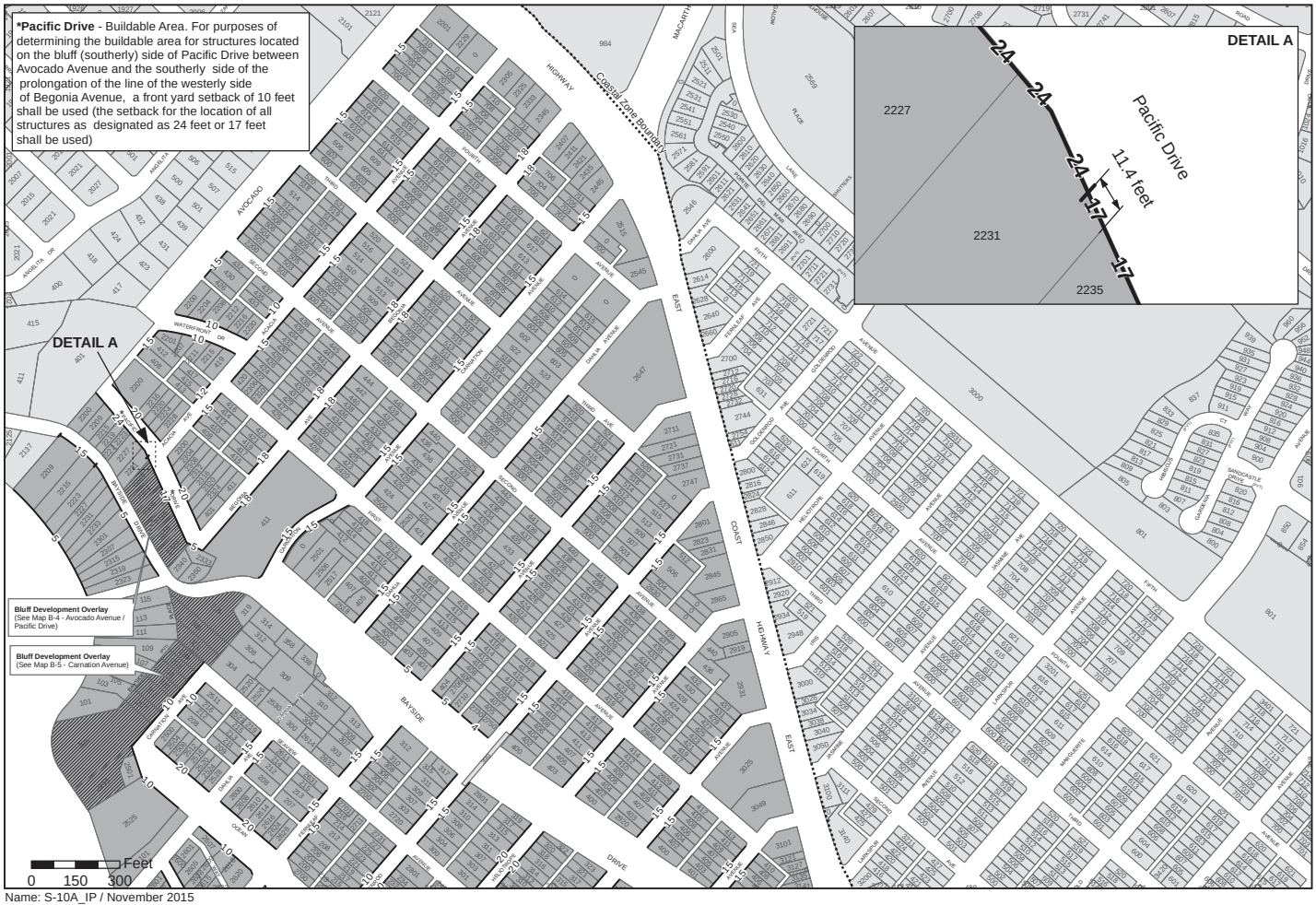

Bluff Development Overlay
(See Map B-2 - Irvine Terrace - Dolphin Terrace)
Bluff Development Overlay
(See Map B-3 - Irvine Terrace - Bayadere Terrace)
COAST HIGHWAY
EAST COAST HIGHWAY
JAMBOREE ROAD
BAYSIDE DRIVE
SEAGRIFT DRIVE
EL PASEO DRIVE
DOLPHIN TERRACE
BONNIE TERRACE
SAN MIGUEL DRIVE
SAN MARINO DRIVE
SAN CLEMENTE DRIVE
SAN REMO DRIVE
SAN JUAN DRIVE
SAN LUIS DRIVE
SAN MARCOS DRIVE
SAN DIEGO DRIVE
SAN FERNANDO DRIVE
SAN GABRIEL DRIVE
SAN CARLOS DRIVE
SAN SIMEON DRIVE
SAN ANDREAS DRIVE
SAN BENITO DRIVE
SAN ANSELMO DRIVE
SAN ARMANDO DRIVE
SAN ALESO DRIVE
SAN ANTONIO DRIVE
SAN ANACAPA DRIVE
SAN ANDRES DRIVE
SAN ALBERT



Name: S-9B_IP / November 2015

S-9B - Irvine Terrace DRAFT

Setback Map



Name: S-10A_IP / November 2015

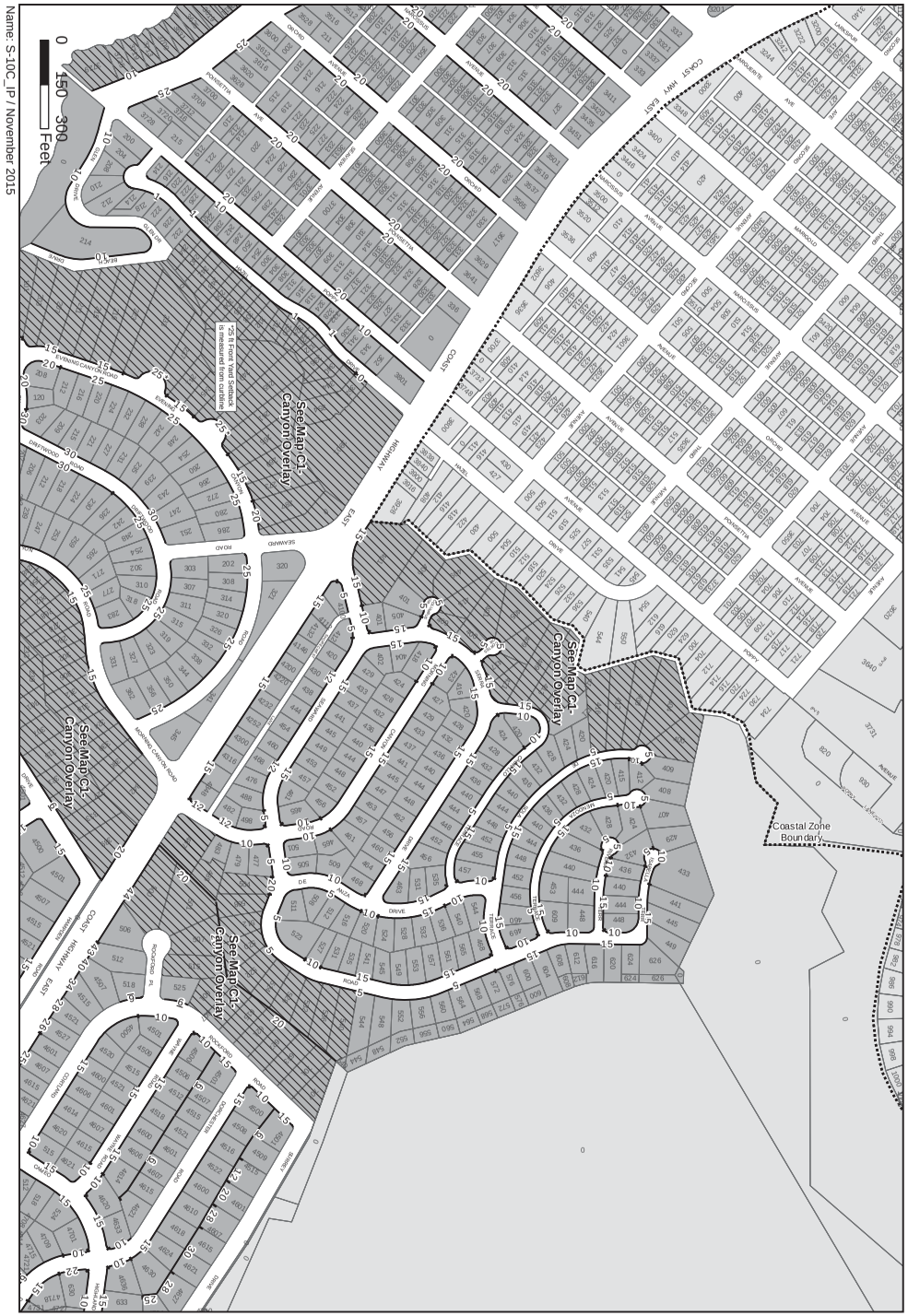
S-10A - Corona del Mar **DRAFT**

Setback Map

Name: S-10B_IP / November 2015

S-10B - Corona del Mar DRAFT

Setback Map



S-10C - Corona del Mar **DRAFT**

Setback Map



Name: S-10D_IP / November 2015

S-10D - Corona del Mar **DRAFT**

Setback Map



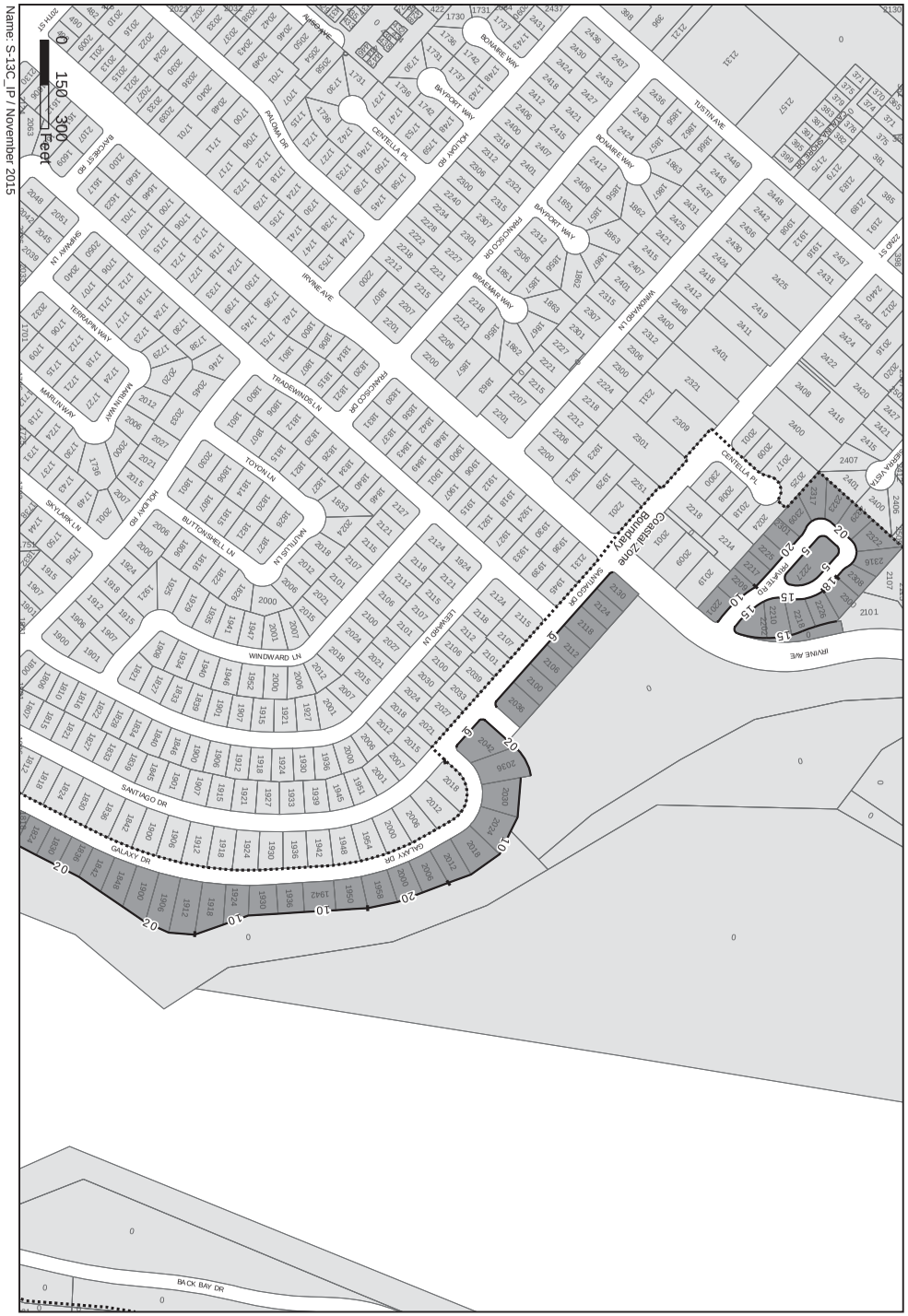
Name: S-13A_IP / November 2015

S-13A - Dover Shores **DRAFT**

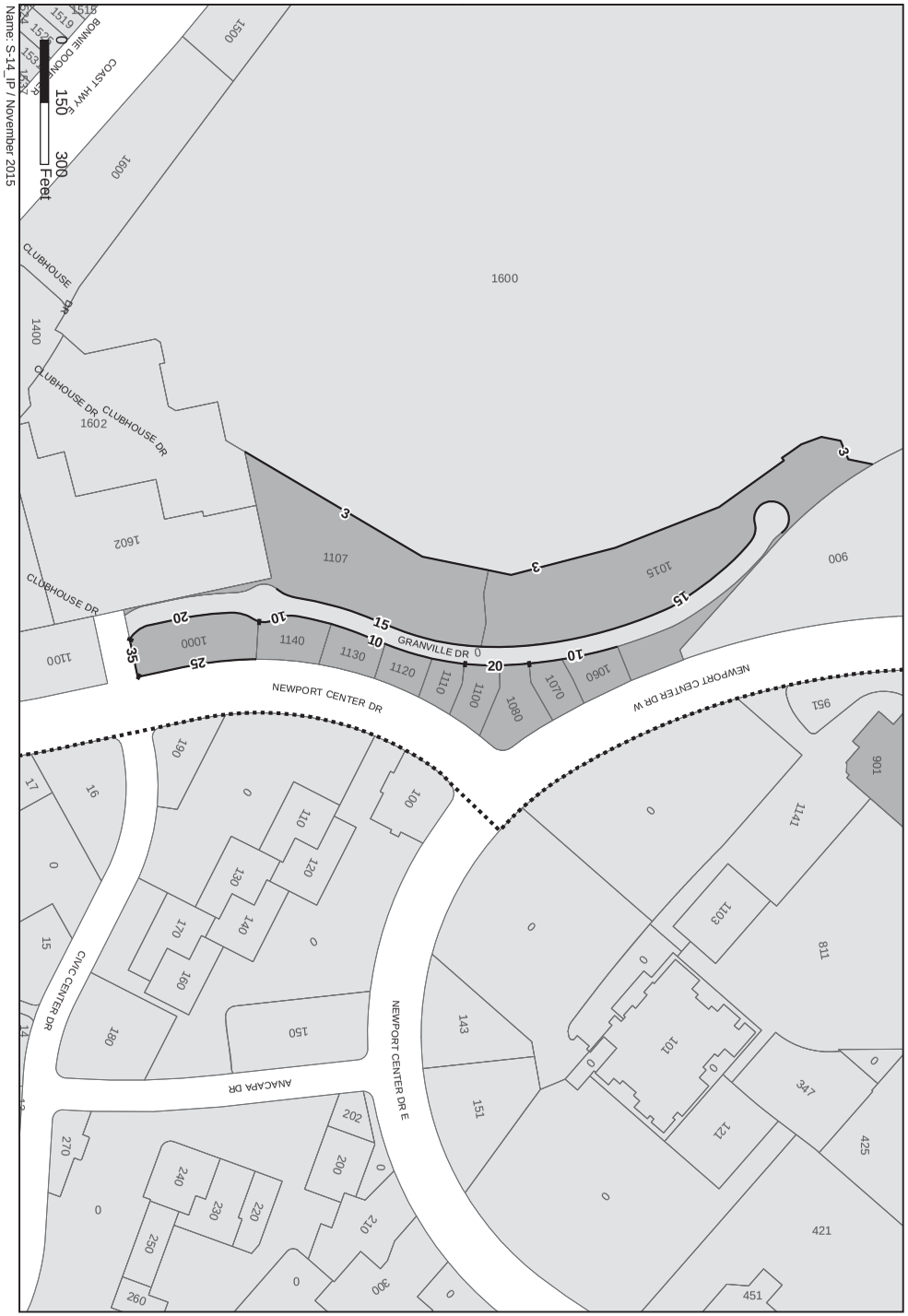
Setback Map



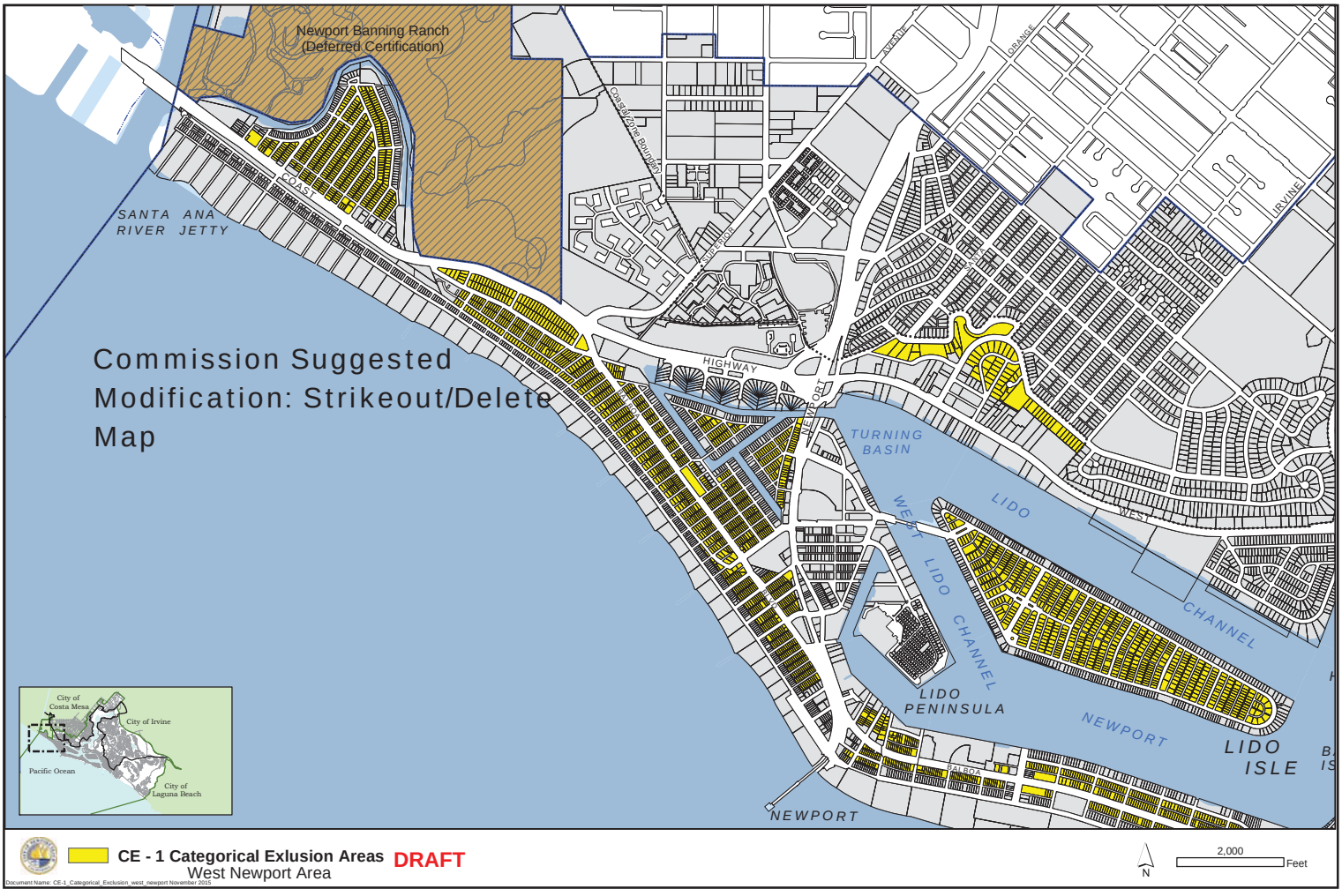
S-13B - Dover Shores **DRAFT** Setback Map



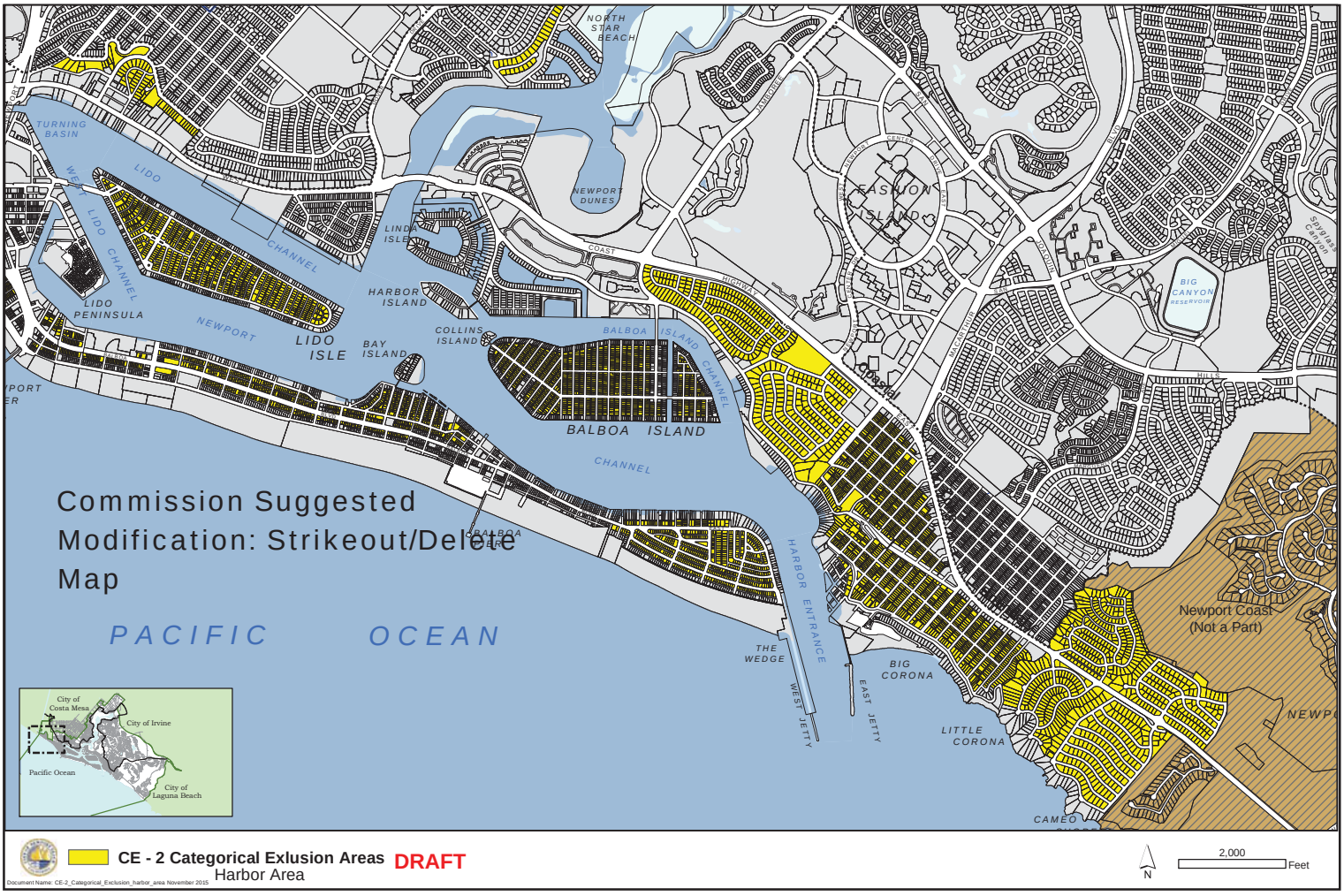
S-13C - Dover Shores **DRAFT** Setback Map

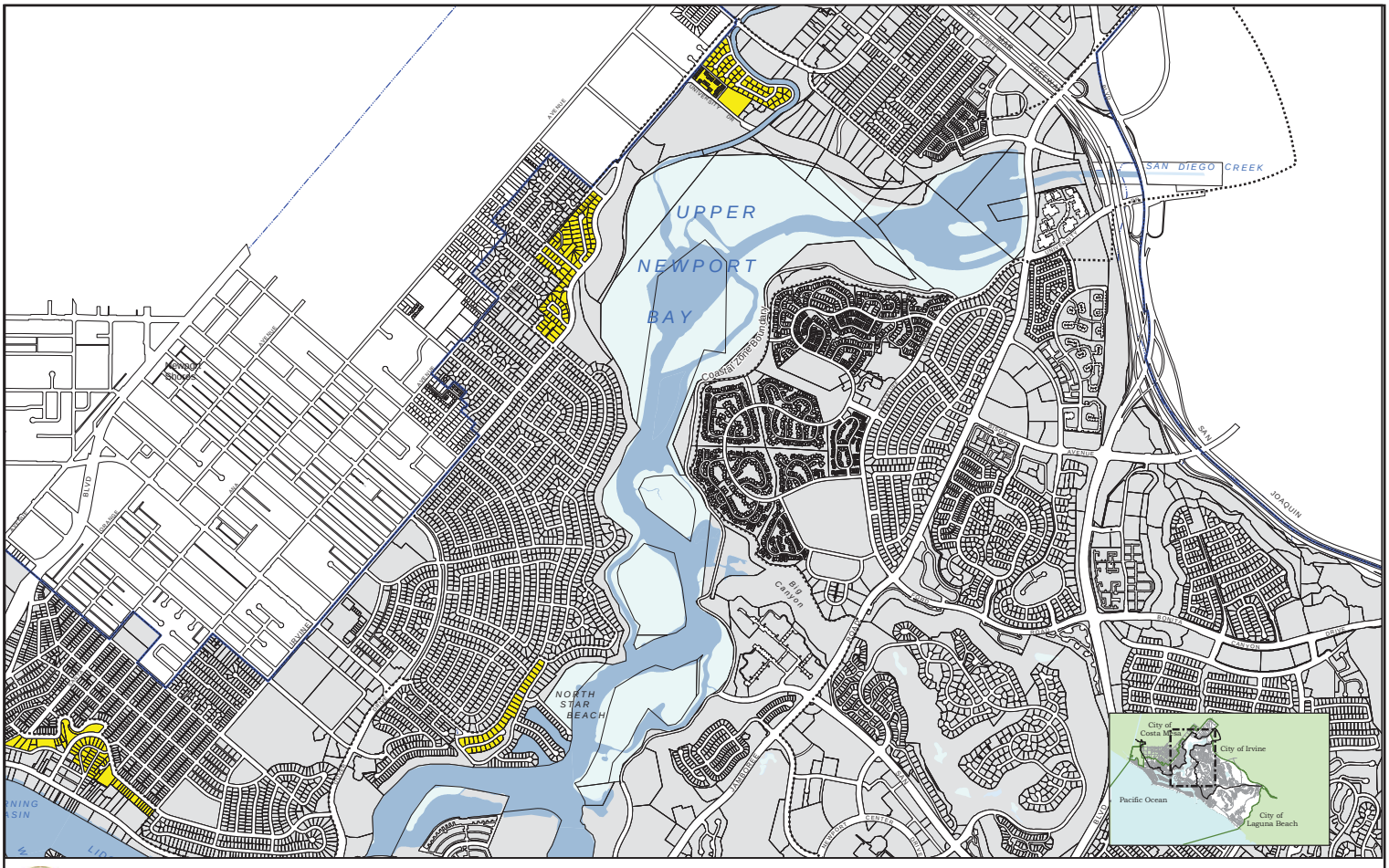


S-14 - Granville Drive **DRAFT** Setback Map



Document Name: CE-1_Categorical_Exclusion_west_newport November 2015

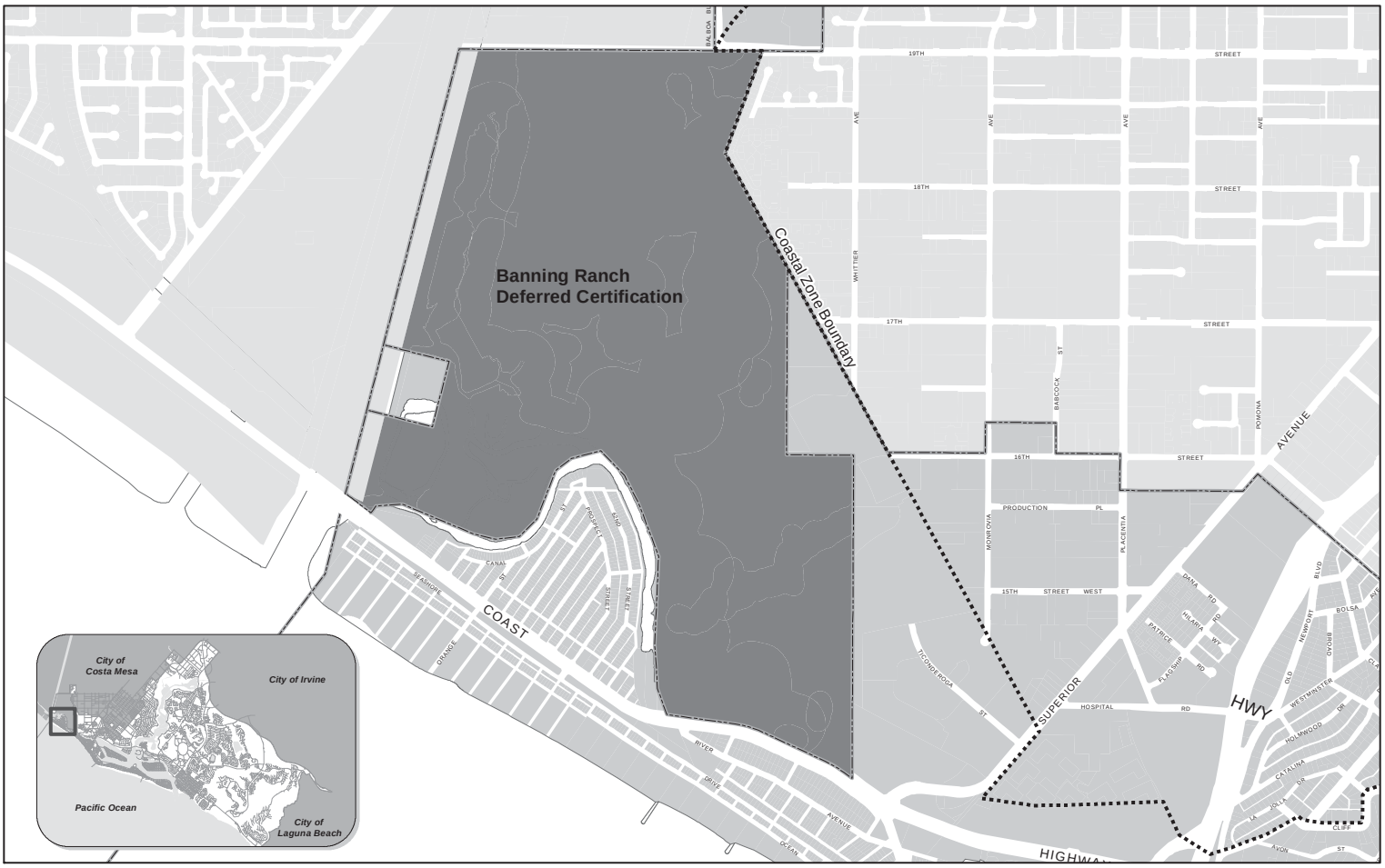

Commission Suggested Modification: Strikeout/Delete Map
PACIFIC OCEAN
NORTH STAR BEACH
TURNING BASIN
LIDO
WEST LIDO CHANNEL
CHANNEL
NEWPORT DUNES
LINDA ISLE
HARBOR ISLAND
COLLINS ISLAND
LIDO PENINSULA
NEWPORT
LIDO ISLE
BAY ISLAND
BALBOA ISLAND
BALBOA ISLAND CHANNEL
CHANNEL
BALBOA PIER
HARBOR ENTRANCE
THE WEDGE
WEST JETTY
EAST JETTY
BIG CORONA
LITTLE CORONA
CAMEO
FASHION ISLAND
Coastal
BIG CANYON RESERVOIR
Newport Coast (Not a Part)
City of Costa Mesa
City of Irvine
Pacific Ocean
City of Laguna Beach
CE - 2 Categorical Exlusion Areas
Harbor Area
DRAFT
Document Name: CE-2_Categorical_Exclusion_harbor_area November 2015
N
2,000
Feet



CE - 3 Categorical Exlusion Areas **DRAFT**

Upper Back Bay

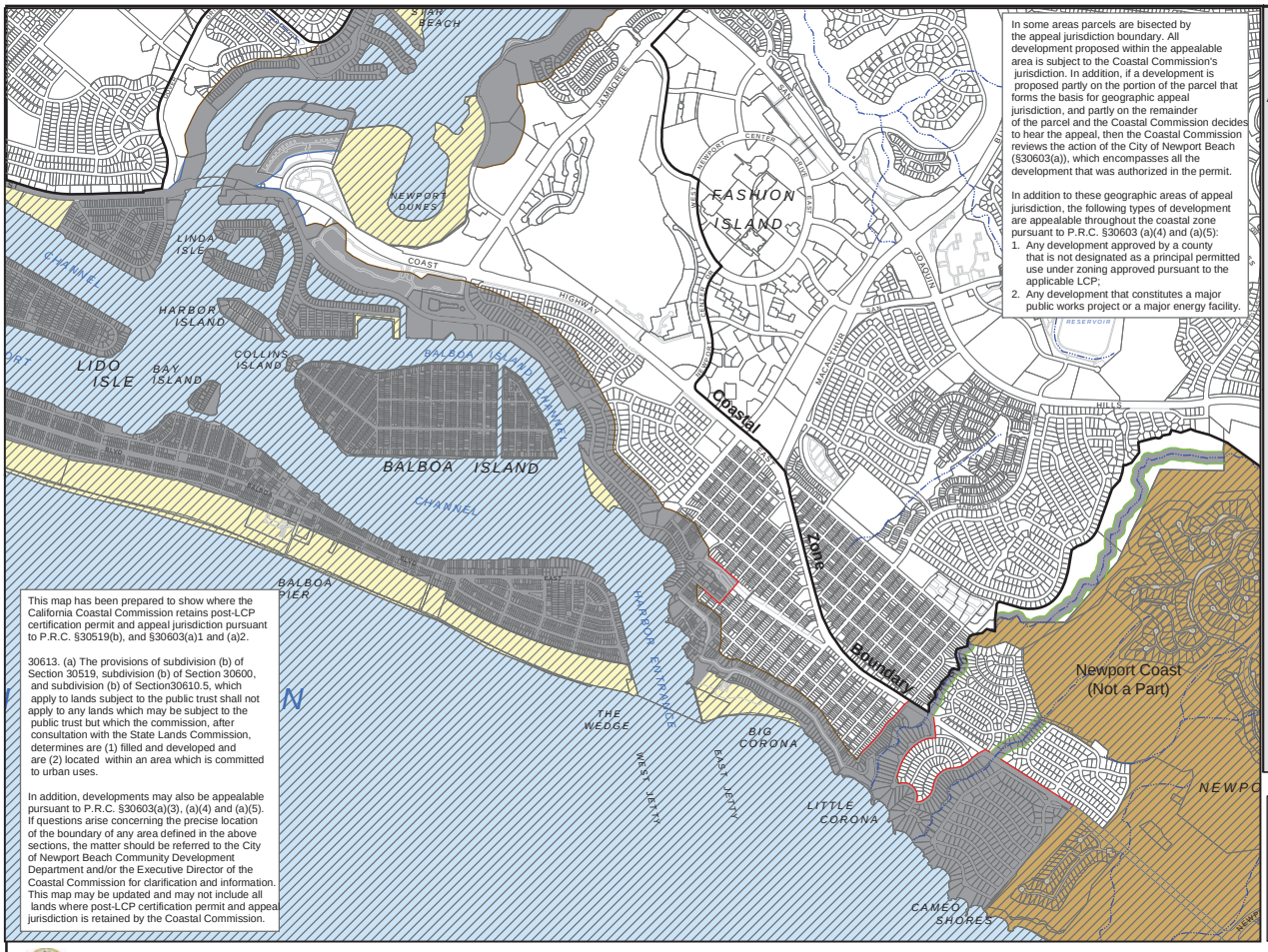
Document Name: CE-3_Categorical_Exclusion_upperbackbay November 2015



DC-1 - Banning Ranch Deferred Certification DRAFT

0 250 500 1,000 1,500 Feet

Name: DC-1_Banning Ranch / November 2015



In some areas parcels are bisected by the appeal jurisdiction boundary. All development proposed within the appealable area is subject to the Coastal Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel and the Coastal Commission decides to hear the appeal, then the Coastal Commission reviews the action of the City of Newport Beach (§30603(a)), which encompasses all the development that was authorized in the permit.

In addition to these geographic areas of appeal jurisdiction, the following types of development are appealable throughout the coastal zone pursuant to P.R.C. §30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable LCP;
2. Any development that constitutes a major public works project or a major energy facility.

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §30519(b), and §30603(a)1 and (a)2.

30613. (a) The provisions of subdivision (b) of Section 30519, subdivision (b) of Section 30600, and subdivision (b) of Section30610.5, which apply to lands subject to the public trust shall not apply to any lands which may be subject to the public trust but which the commission, after consultation with the State Lands Commission, determines are (1) filled and developed and are (2) located within an area which is committed to urban uses.

In addition, developments may also be appealable pursuant to P.R.C. §30603(a)(3), (a)(4) and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the City of Newport Beach Community Development Department and/or the Executive Director of the Coastal Commission for clarification and information. This map may be updated and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Coastal Commission.

Post-Local Coastal Program Implementation Plan

Approximate Boundaries of Permit Jurisdiction and Appeal Areas Map 2 of 3

DRAFT

Revision Date: 08/27/2015

Permit Jurisdiction Land

Permit Jurisdiction Water

This area includes submerged lands below the mean high tide line or lands where the public trust may exist.

Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

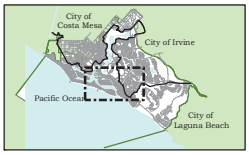
Legend

- Local Coastal Zone Boundary
- City Boundary
- Blue Line Stream

Defined Extent for Appeal Area

- First Public Road
- 300 ft From Beach
- 300 ft From MHTL (Mean High Tide Line)
- 100 ft From Stream
- 100 ft From Wetland
- 300 ft From Bluff Edge

KEY MAP

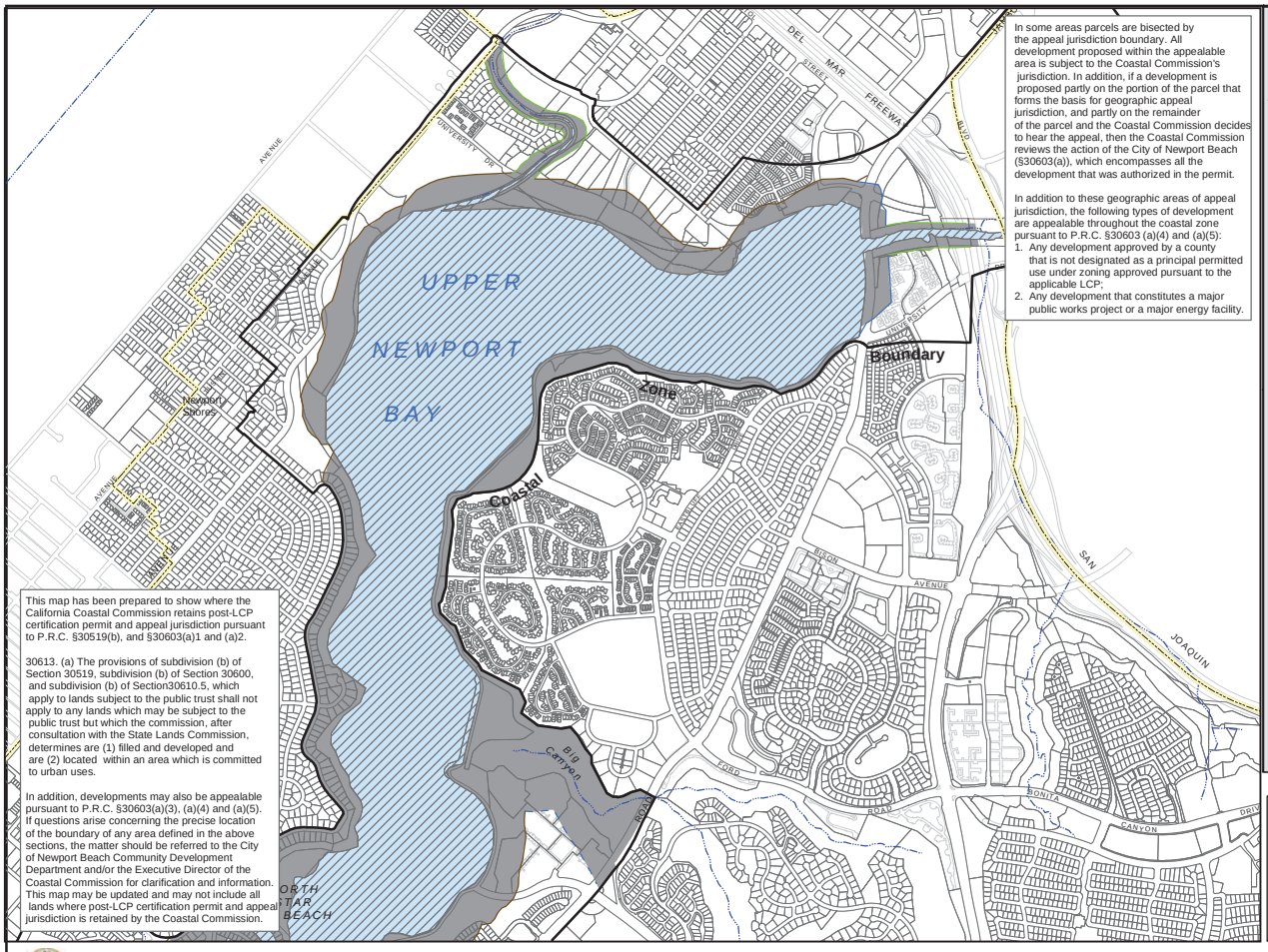


City of Newport Beach (Harbor Area)

Document Name: LCP2015_appeal_permit_jurisHarb_October2015 November 2015

N

2,000 Feet



In some areas parcels are bisected by the appeal jurisdiction boundary. All development proposed within the appealable area is subject to the Coastal Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel and the Coastal Commission decides to hear the appeal, then the Coastal Commission reviews the action of the City of Newport Beach (§30603(a)), which encompasses all the development that was authorized in the permit.

In addition to these geographic areas of appeal jurisdiction, the following types of development are appealable throughout the coastal zone pursuant to P.R.C. §30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable LCP;
2. Any development that constitutes a major public works project or a major energy facility.

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §30519(b), and §30603(a)1 and (a)2.

30613. (a) The provisions of subdivision (b) of Section 30519, subdivision (b) of Section 30600, and subdivision (b) of Section30610.5, which apply to lands subject to the public trust shall not apply to any lands which may be subject to the public trust but which the commission, after consultation with the State Lands Commission, determines are (1) filled and developed and are (2) located within an area which is committed to urban uses.

In addition, developments may also be appealable pursuant to P.R.C. §30603(a)(3), (a)(4) and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the City of Newport Beach Community Development Department and/or the Executive Director of the Coastal Commission for clarification and information. This map may be updated and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Coastal Commission.

Post-Local Coastal Program Implementation Plan

Approximate Boundaries of Permit Jurisdiction and Appeal Areas Map 3 of 3

DRAFT

Revision Date: 08/27/2015

Permit Jurisdiction Land

Permit Jurisdiction Water

This area includes submerged lands below the mean high tide line or lands where the public trust may exist.

Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

Legend

- Local Coastal Zone Boundary
- City Boundary
- Blue Line Stream

Defined Extent for Appeal Area

- First Public Road
- 300 ft From Beach
- 300 ft From MHTL (Mean High Tide Line)
- 100 ft From Stream
- 100 ft From Wetland
- 300 ft From Bluff Edge

KEY MAP

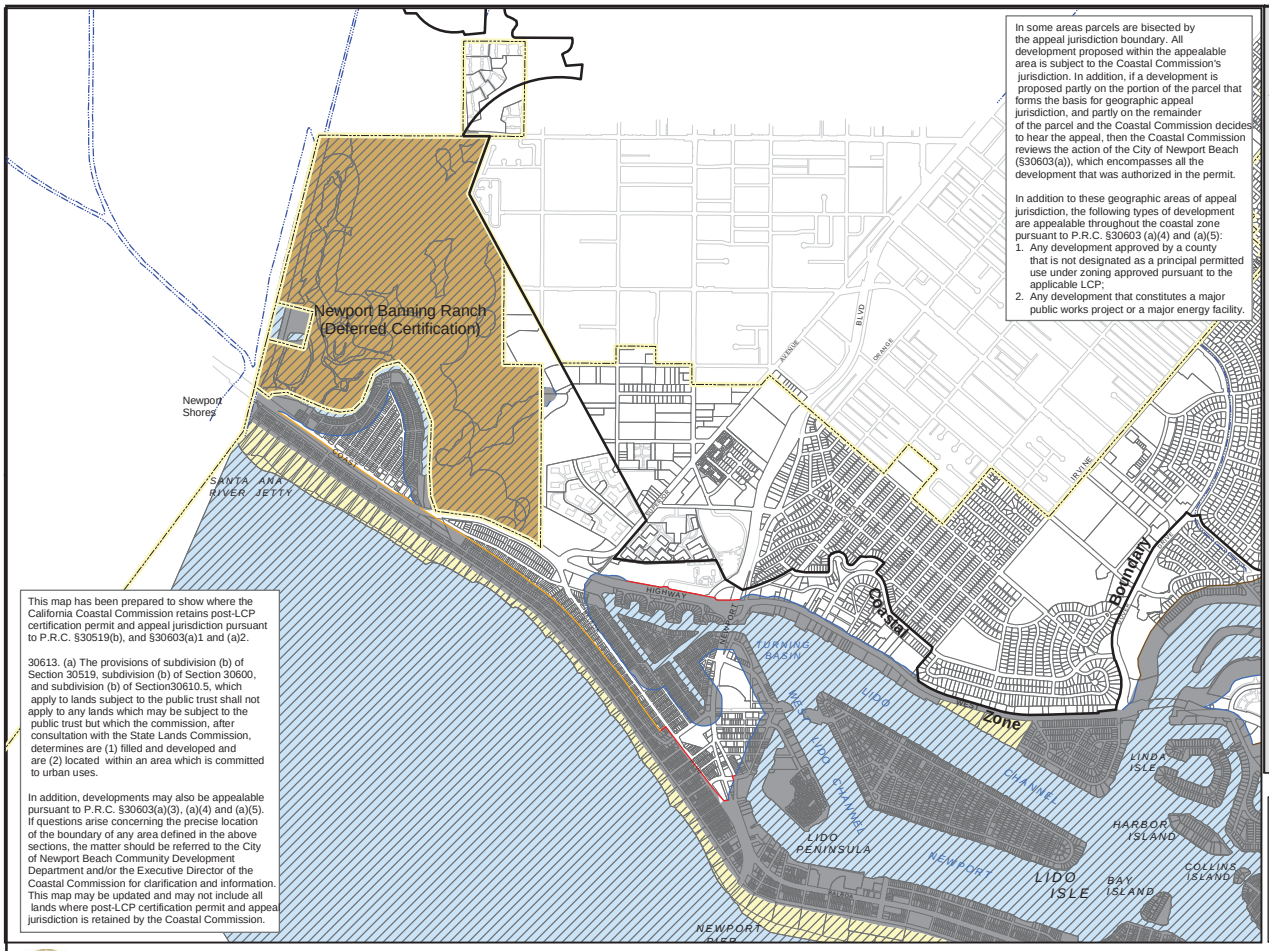


City of Newport Beach (Upper Newport Bay)

N

2,000 Feet

Document Name: LCP2015_appeal_permit_upperbay_October2015 November 2015



In some areas parcels are bisected by the appeal jurisdiction boundary. All development proposed within the appealable area is subject to the Coastal Commission's jurisdiction. In addition, if a development is proposed partly on the portion of the parcel that forms the basis for geographic appeal jurisdiction, and partly on the remainder of the parcel and the Coastal Commission decides to hear the appeal, then the Coastal Commission reviews the action of the City of Newport Beach (§30603(a)), which encompasses all the development that was authorized in the permit.

In addition to these geographic areas of appeal jurisdiction, the following types of development are appealable throughout the coastal zone pursuant to P.R.C. §30603 (a)(4) and (a)(5):

1. Any development approved by a county that is not designated as a principal permitted use under zoning approved pursuant to the applicable LCP;
2. Any development that constitutes a major public works project or a major energy facility.

This map has been prepared to show where the California Coastal Commission retains post-LCP certification permit and appeal jurisdiction pursuant to P.R.C. §30519(b), and §30603(a)1 and (a)2.

30613. (a) The provisions of subdivision (b) of Section 30519, subdivision (b) of Section 30600, and subdivision (b) of Section30610.5, which apply to lands subject to the public trust shall not apply to any lands which may be subject to the public trust but which the commission, after consultation with the State Lands Commission, determines are (1) filled and developed and are (2) located within an area which is committed to urban uses.

In addition, developments may also be appealable pursuant to P.R.C. §30603(a)(3), (a)(4) and (a)(5). If questions arise concerning the precise location of the boundary of any area defined in the above sections, the matter should be referred to the City of Newport Beach Community Development Department and/or the Executive Director of the Coastal Commission for clarification and information. This map may be updated and may not include all lands where post-LCP certification permit and appeal jurisdiction is retained by the Coastal Commission.

Post-Local Coastal Program Implementation Plan

Approximate Boundaries of Permit Jurisdiction and Appeal Areas
Map 1 of 3

DRAFT

Revision Date: 08/27/2015

Permit Jurisdiction Land

Permit Jurisdiction Water

This area includes submerged lands below the mean high tide line or lands where the public trust may exist.

Appeal Jurisdiction

This area includes lands between the sea and the designated first public road paralleling the sea or 300' from the inland extent of any beach or of the mean high tide line if there is no beach, whichever is the greater distance. Also included are lands within 100' of streams and wetlands and lands within 300' of the top of the seaward face of any coastal bluff.

Legend

- Local Coastal Zone Boundary
- City Boundary
- Blue Line Stream

Defined Extent for Appeal Area

- First Public Road
- 300 ft From Beach
- 300 ft From MHTL (Mean High Tide Line)
- 100 ft From Stream
- 100 ft From Wetland
- 300 ft From Bluff Edge

KEY MAP

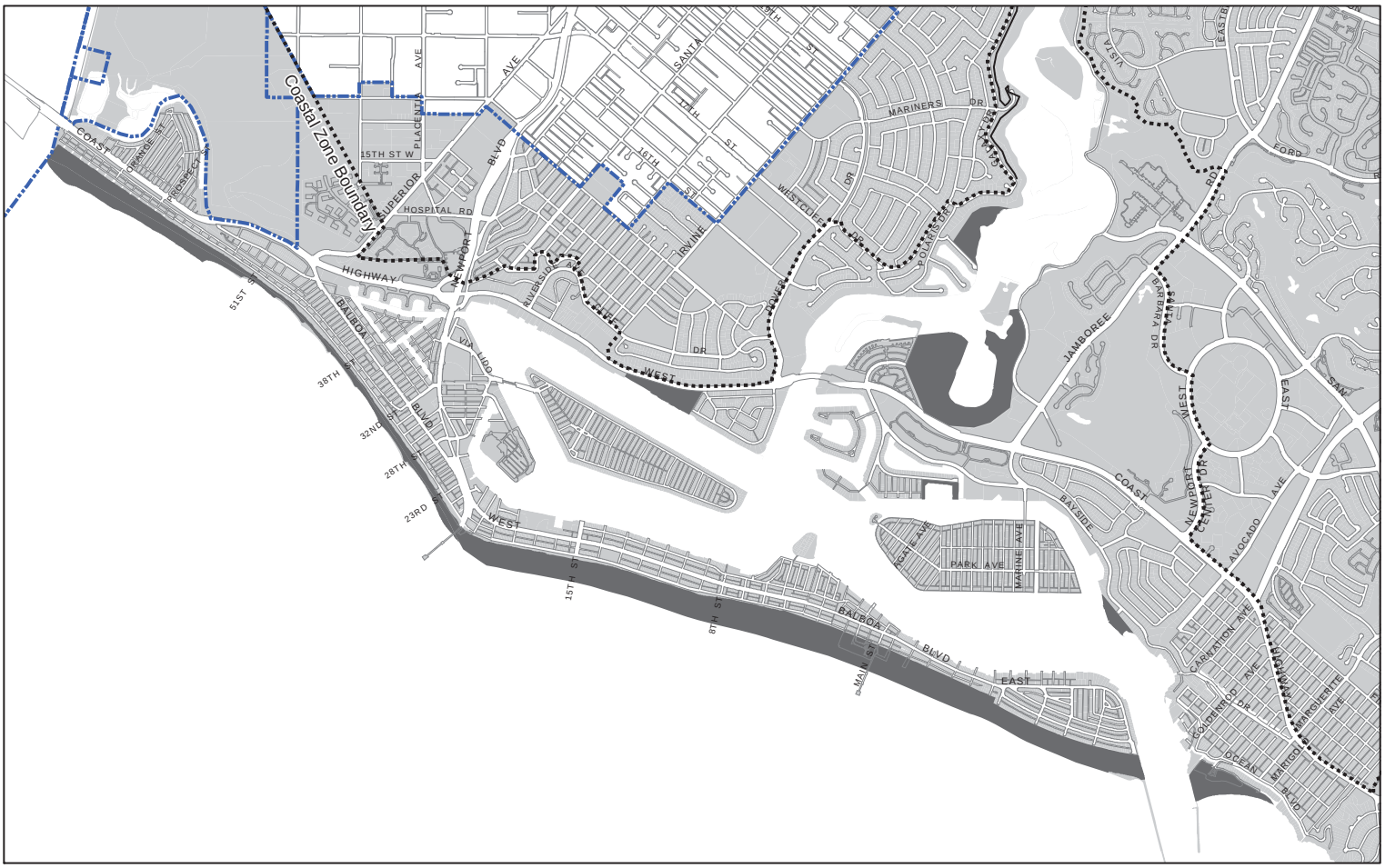


City of Newport Beach (West Newport Area)

N

2,000 Feet

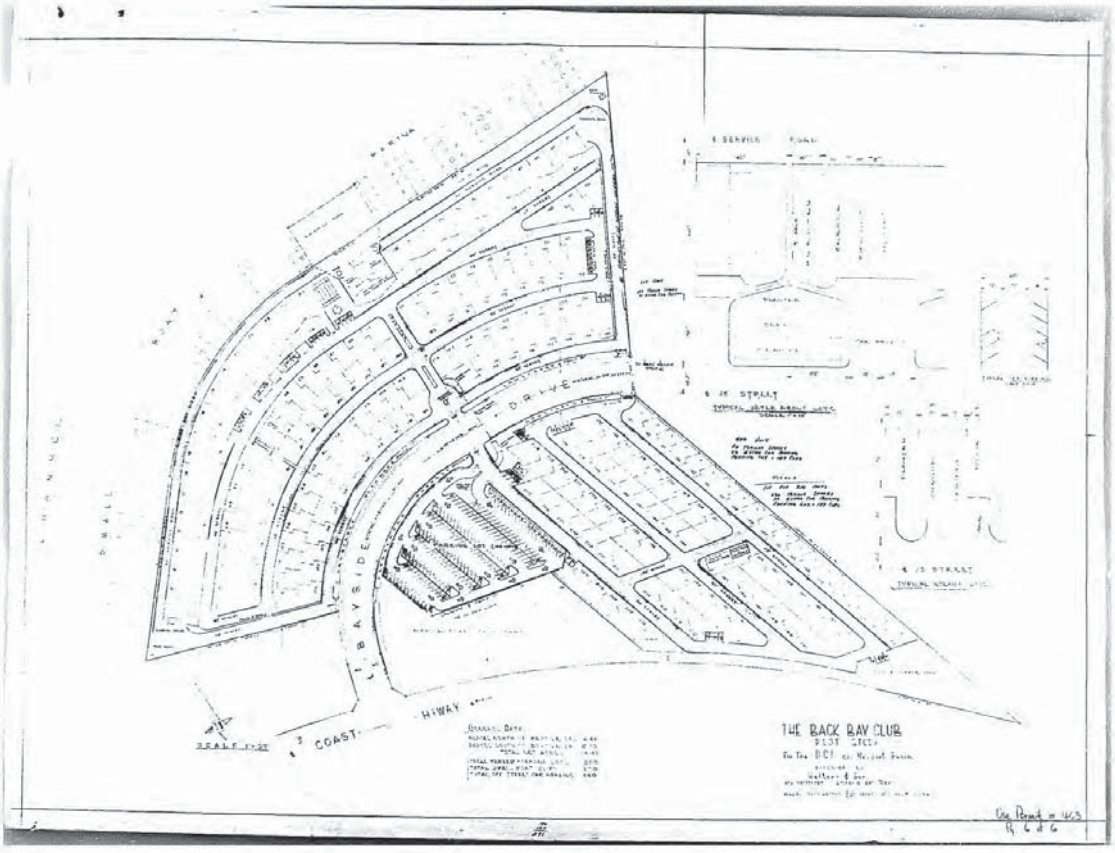
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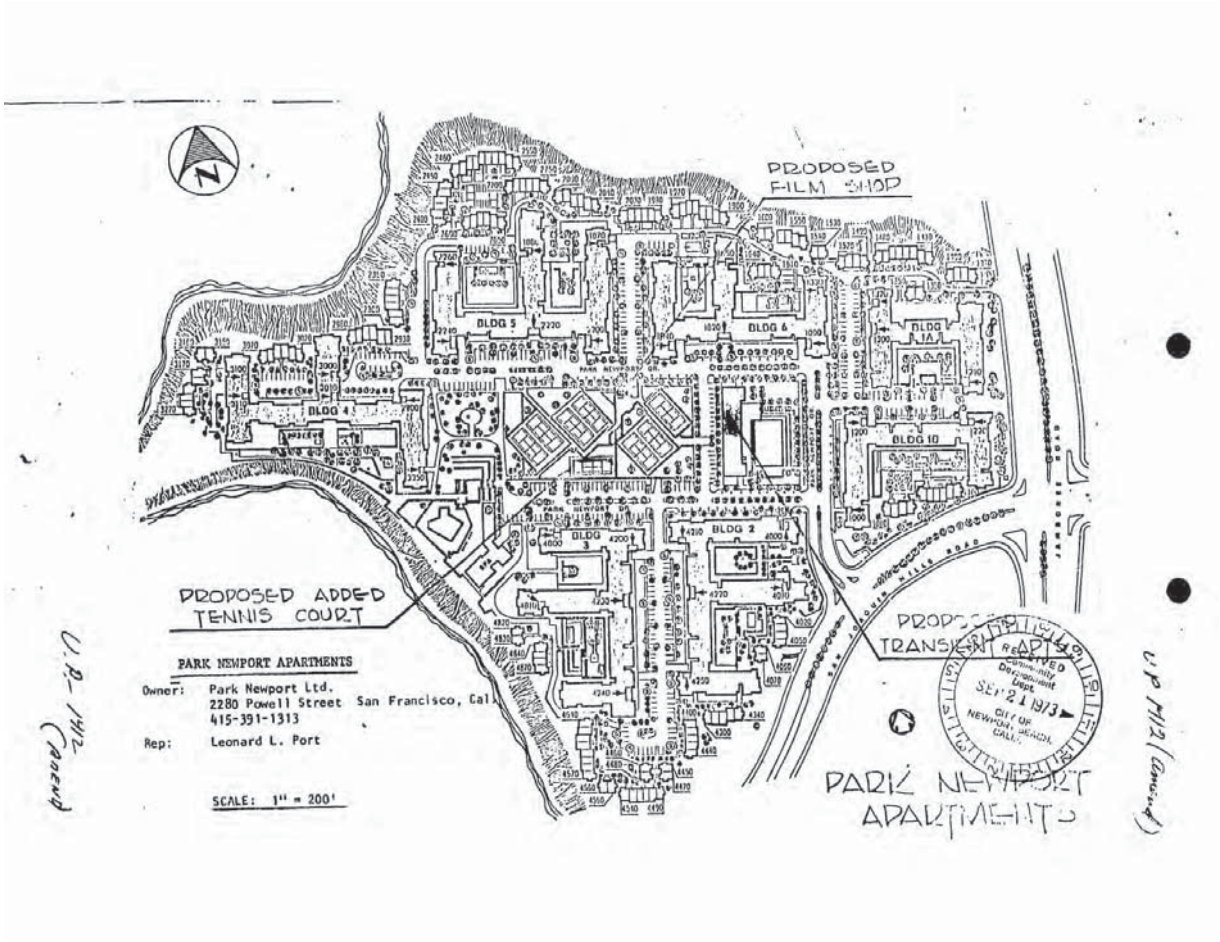
PT-1 Public Trust Lands Delegated to the City **DRAFT**

0 1,000 2,000 Feet

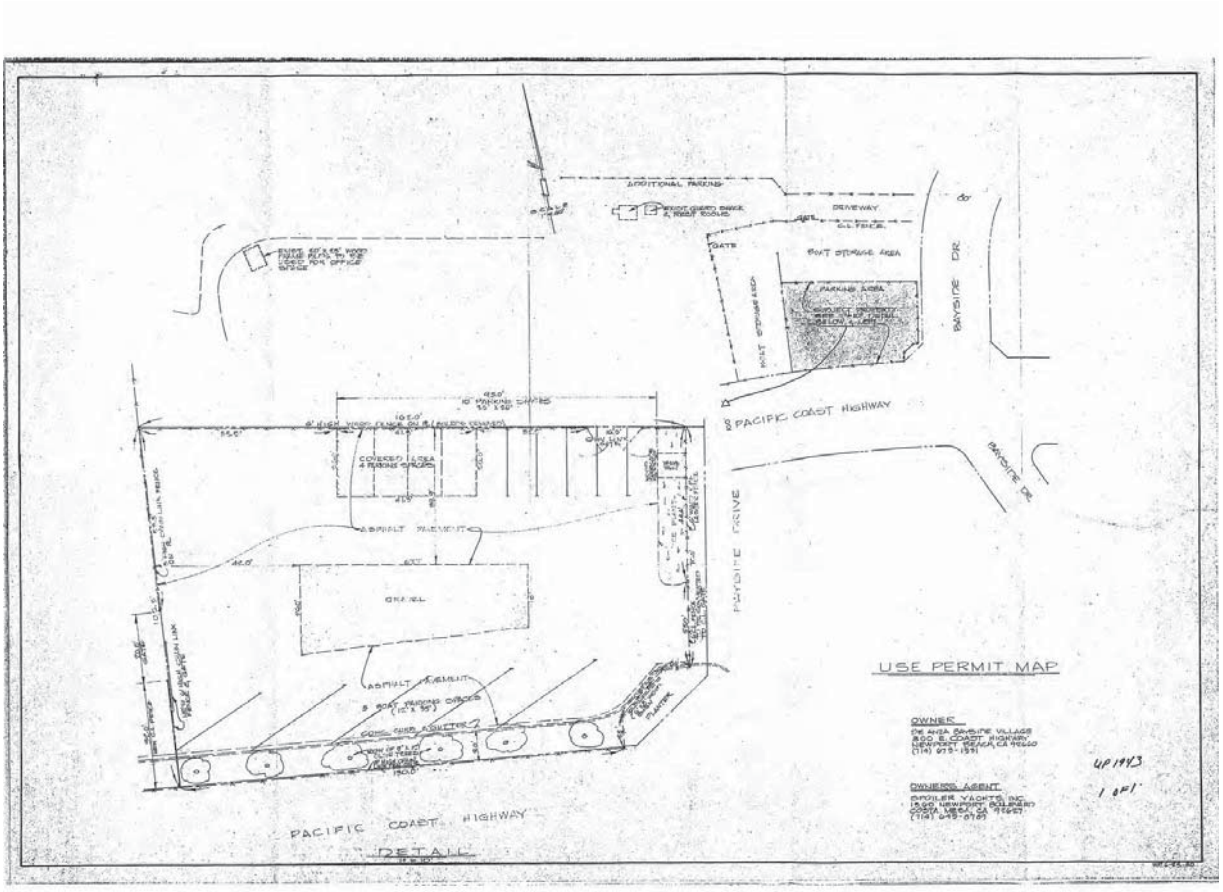
Name: PT1_Public_Trust_Areas / November 2015



PC-1 Bayside Village Planned Community Site Plan



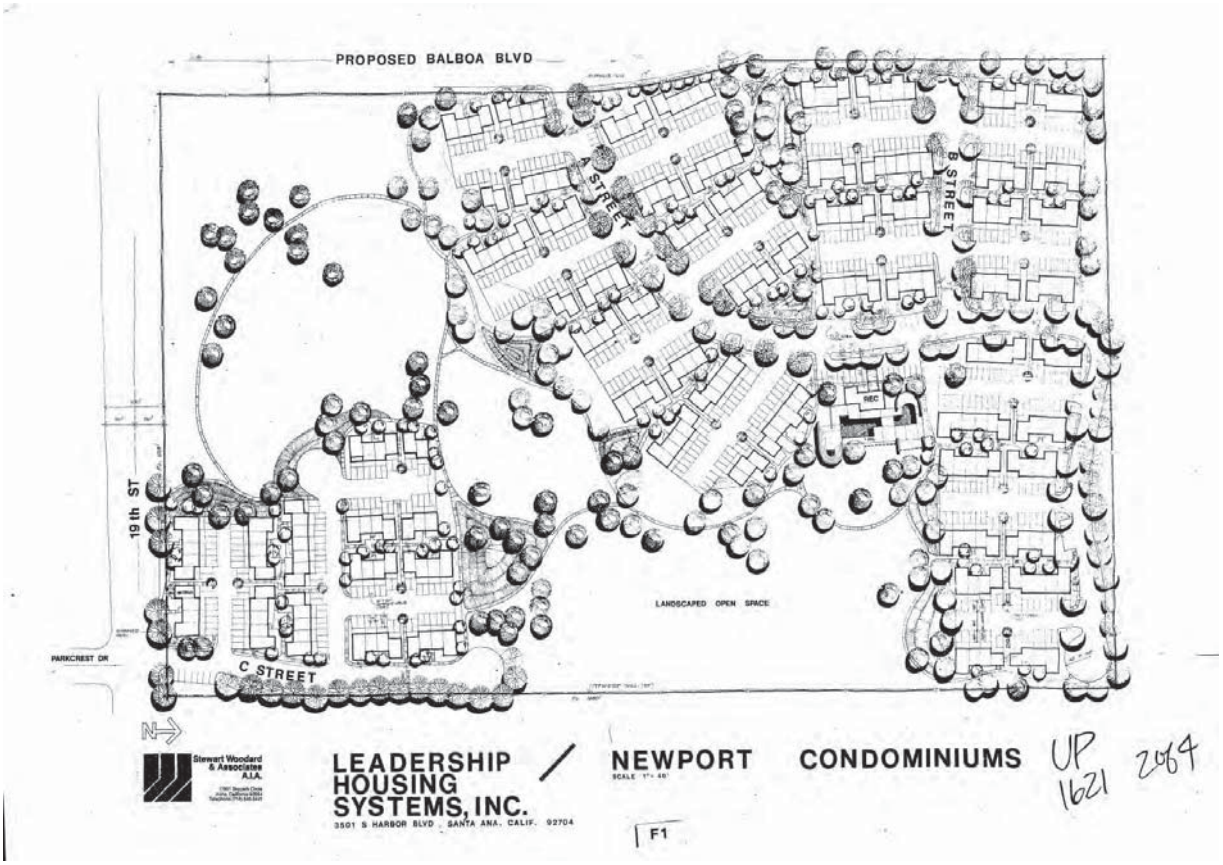
PC-7 Park Newport Planned Community Site Plan



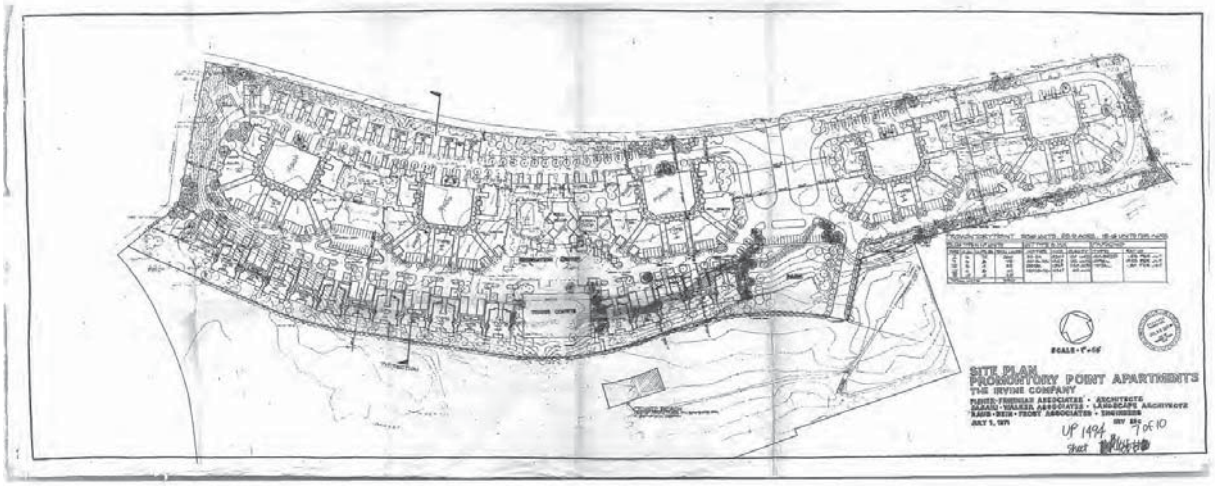
PC-09 Bayside Village Boat Launch and Storage Planned Community Site Plan



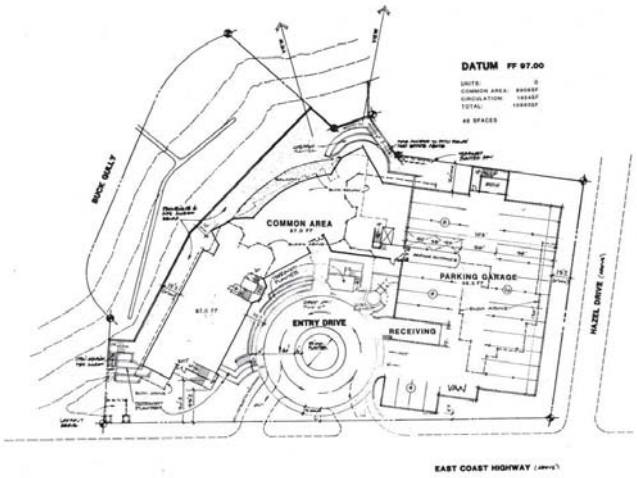
PC-14 Newport Crest Planned Community Site Plan



PC-16 Newport Terrace Planned Community Site Plan



PC-12 Promontory Point Community Site Plan



emerald associates

1601 DOVE ST. SUITE 200 NEWPORT BEACH, CA 92660 (714)476-0880

level -1

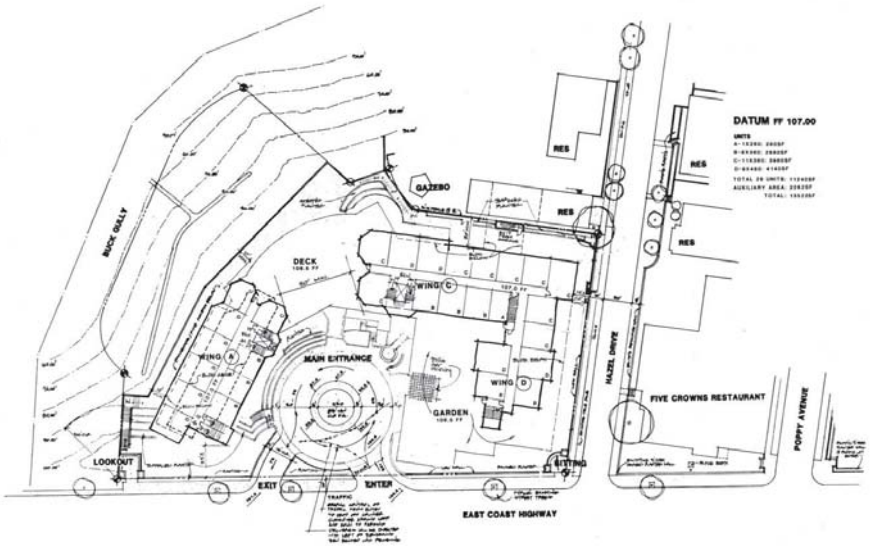
0 20 40

5-8-89 87350 SHT. 3

Dorius Architects
Corona del Mar, Ca
(714) 644-7111

EMERALD VILLAGE

PC-36 Emerald Village Planned Community Site Plan
1 of 4



emerald associates

1601 DOVE ST. SUITE 200 NEWPORT BEACH, CA 92660 (714)476-0880

level 1

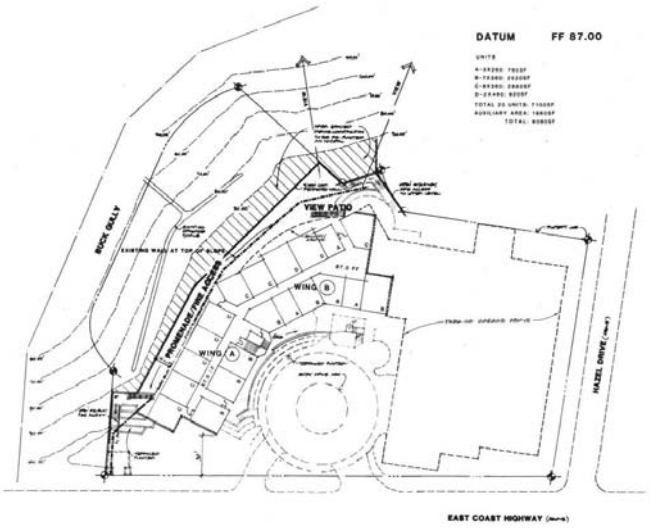
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5-8-89 87350 SHT. 4

EMERALD VILLAGE

Dorius Architects
Corona del Mar, Ca
(714) 644-7111

PC-36 Emerald Village Planned Community Site Plan
2 of 4



emerald associates

1901 DOVE ST. SUITE 200 NEWPORT BEACH, CA 92660 (714)476-0880

level -2

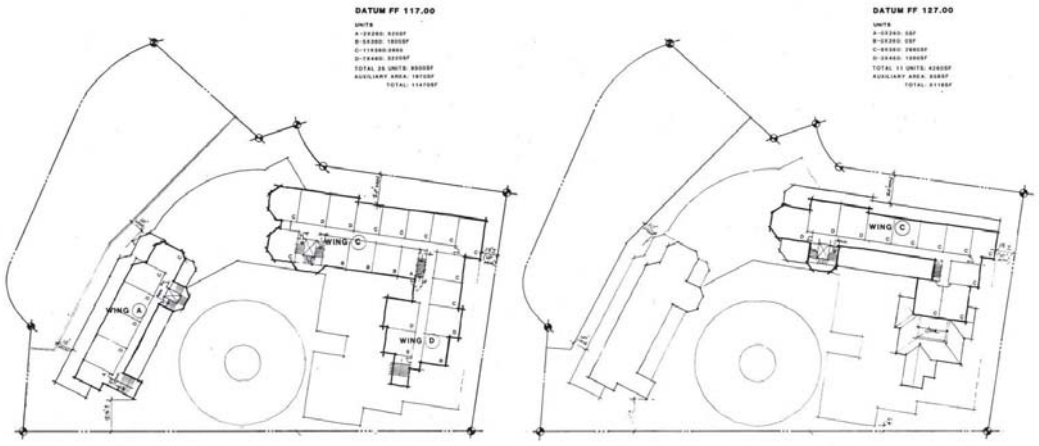
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5-8-89 87350 SHT. 2

EMERALD VILLAGE

Dorius Architects
Corona del Mar, Ca
(714) 644-7111

PC-36 Emerald Village Planned Community Site Plan
3 of 4



emerald associates

1601 DOVE ST. SUITE 200 NEWPORT BEACH, CA 92660 (714)476-0880

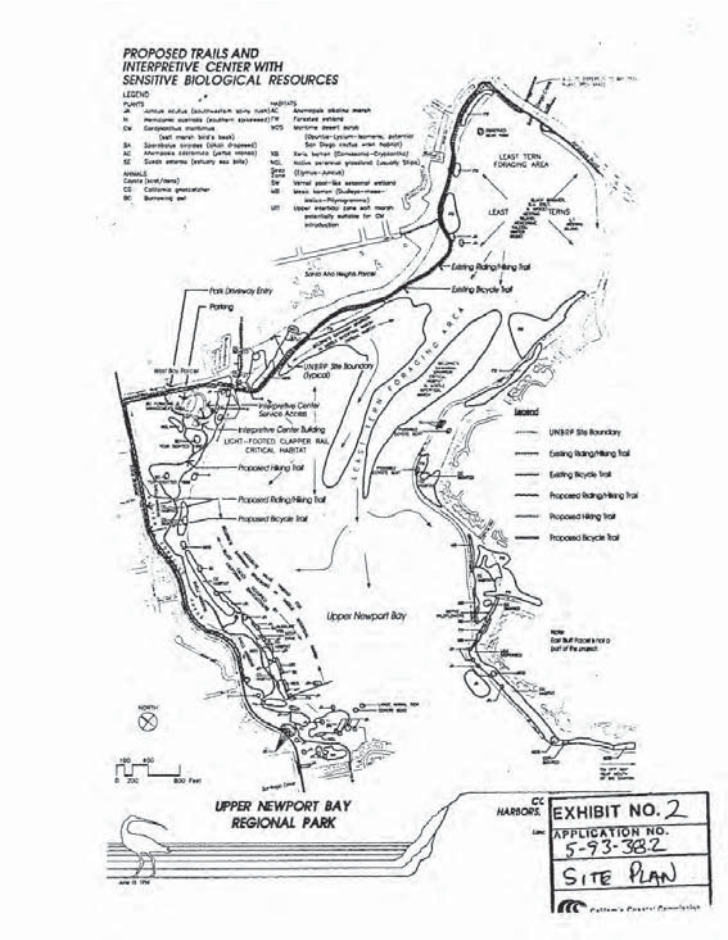
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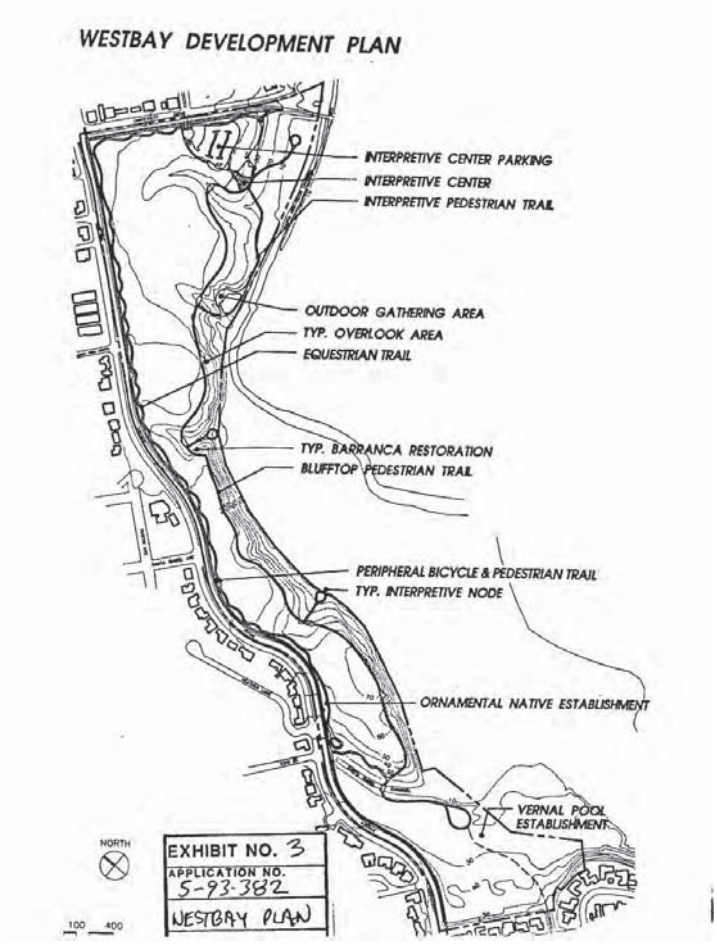
EMERALD VILLAGE

Dorius Architects
Corona del Mar, Ca
(714) 644-7111

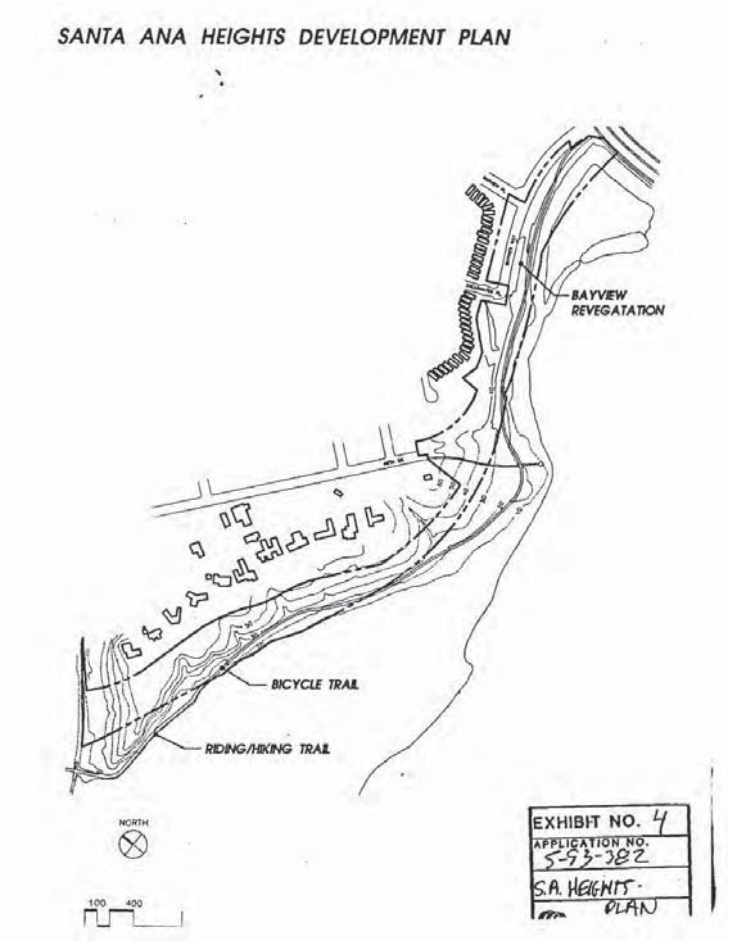
PC-36 Emerald Village Planned Community Site Plan
4 of 4



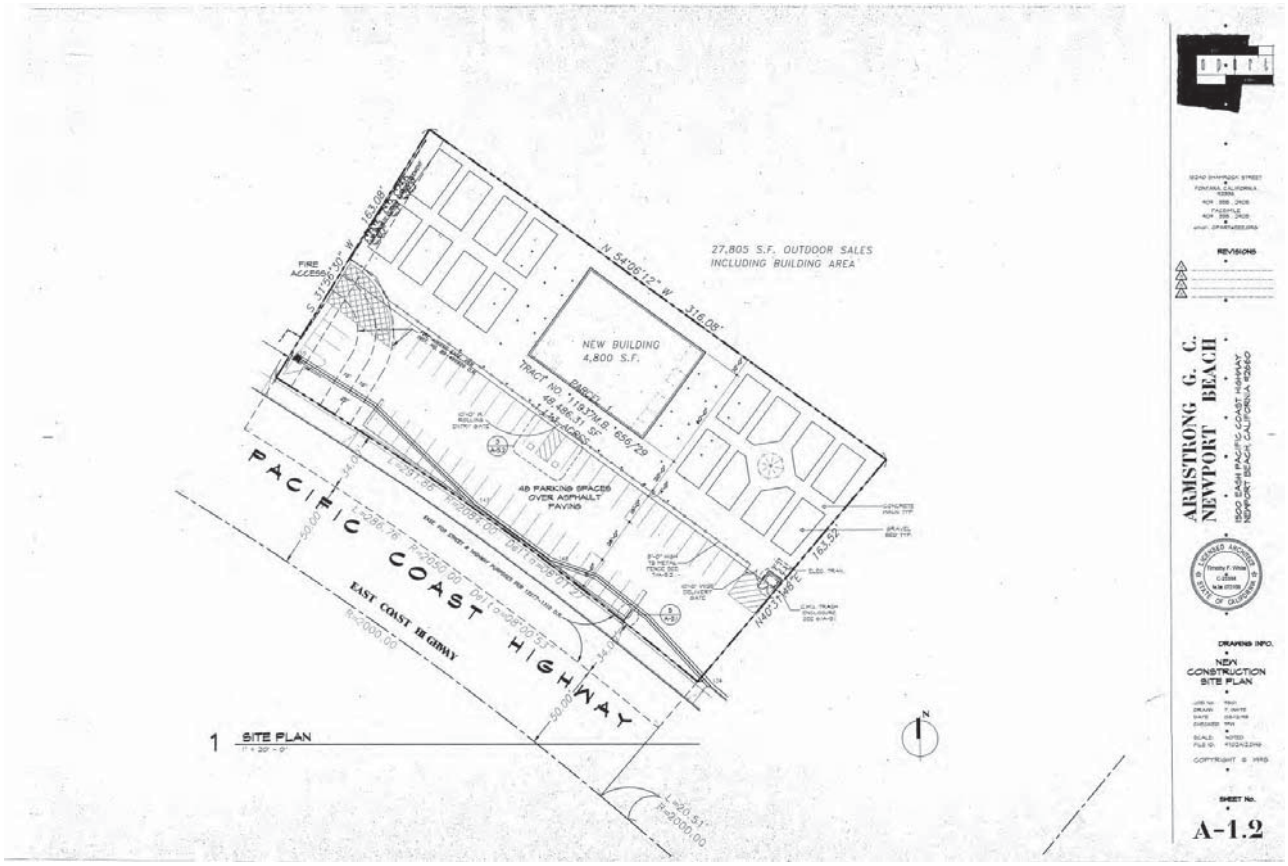
PC-44 Upper Newport Bay Regional Park Planned Community Site Plan
1 of 3



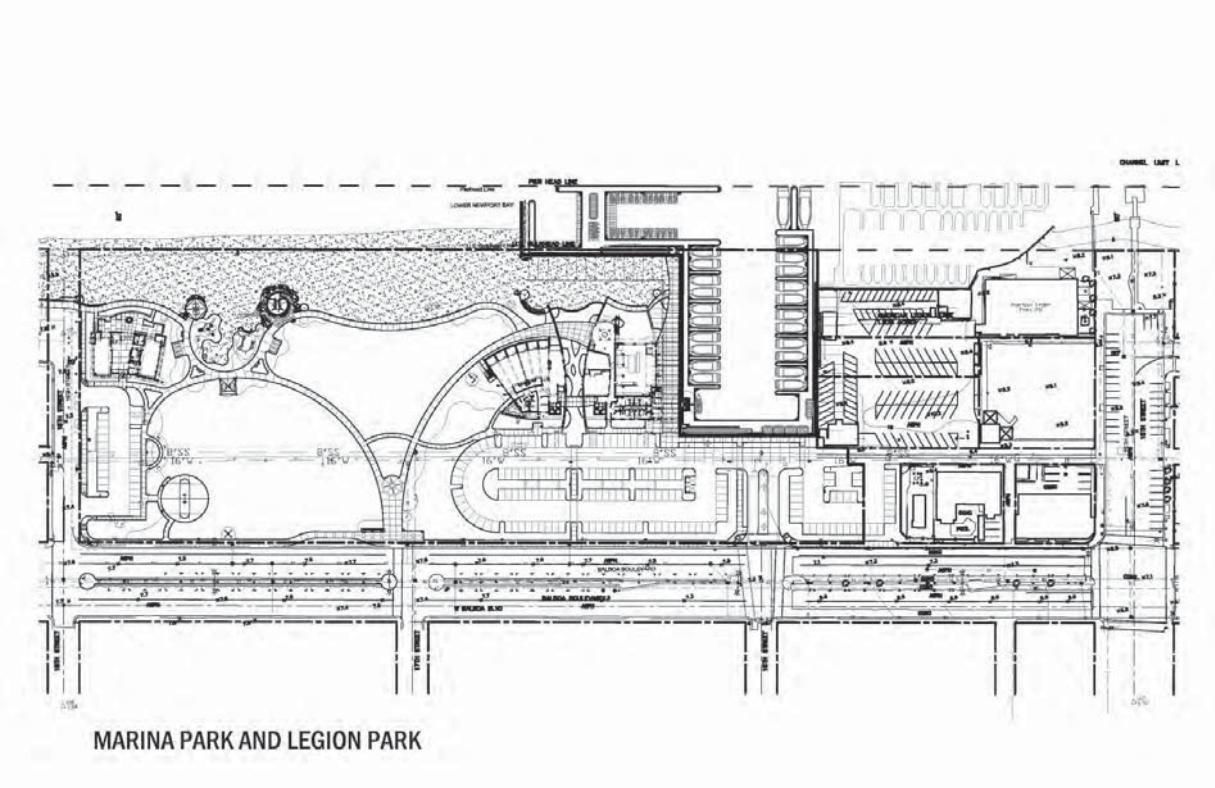
PC-44 Upper Newport Bay Regional Park Planned Community Site Plan
2 of 3



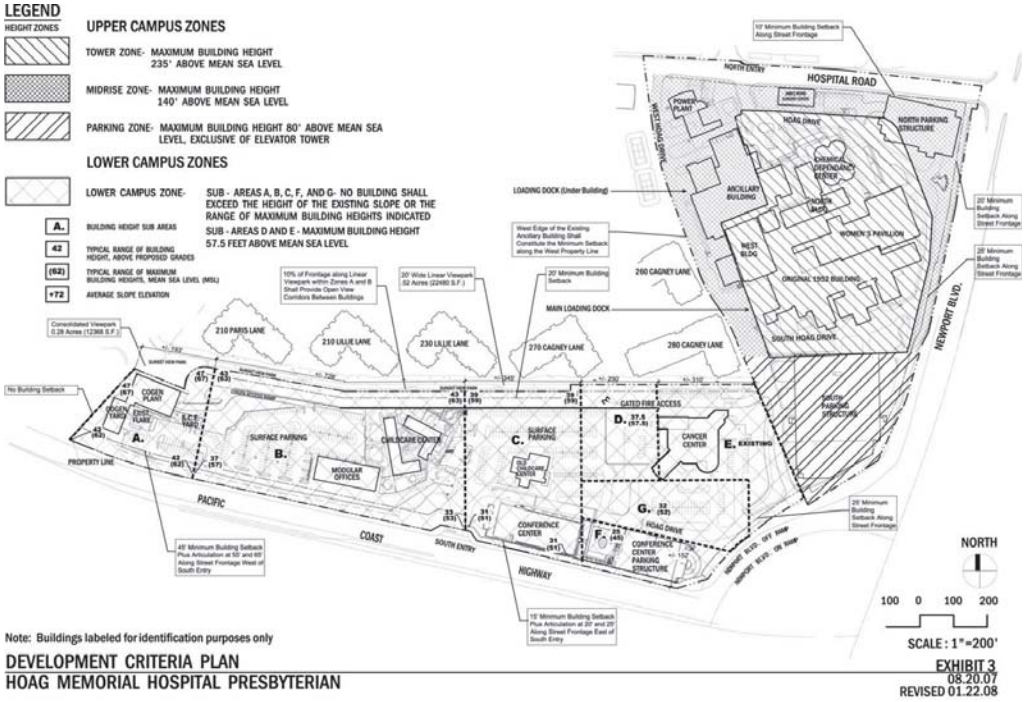
PC-44 Upper Newport Bay Regional Park Planned Community Site Plan
3 of 3



PC-47 Armstrong Garden Planned Community Site Plan



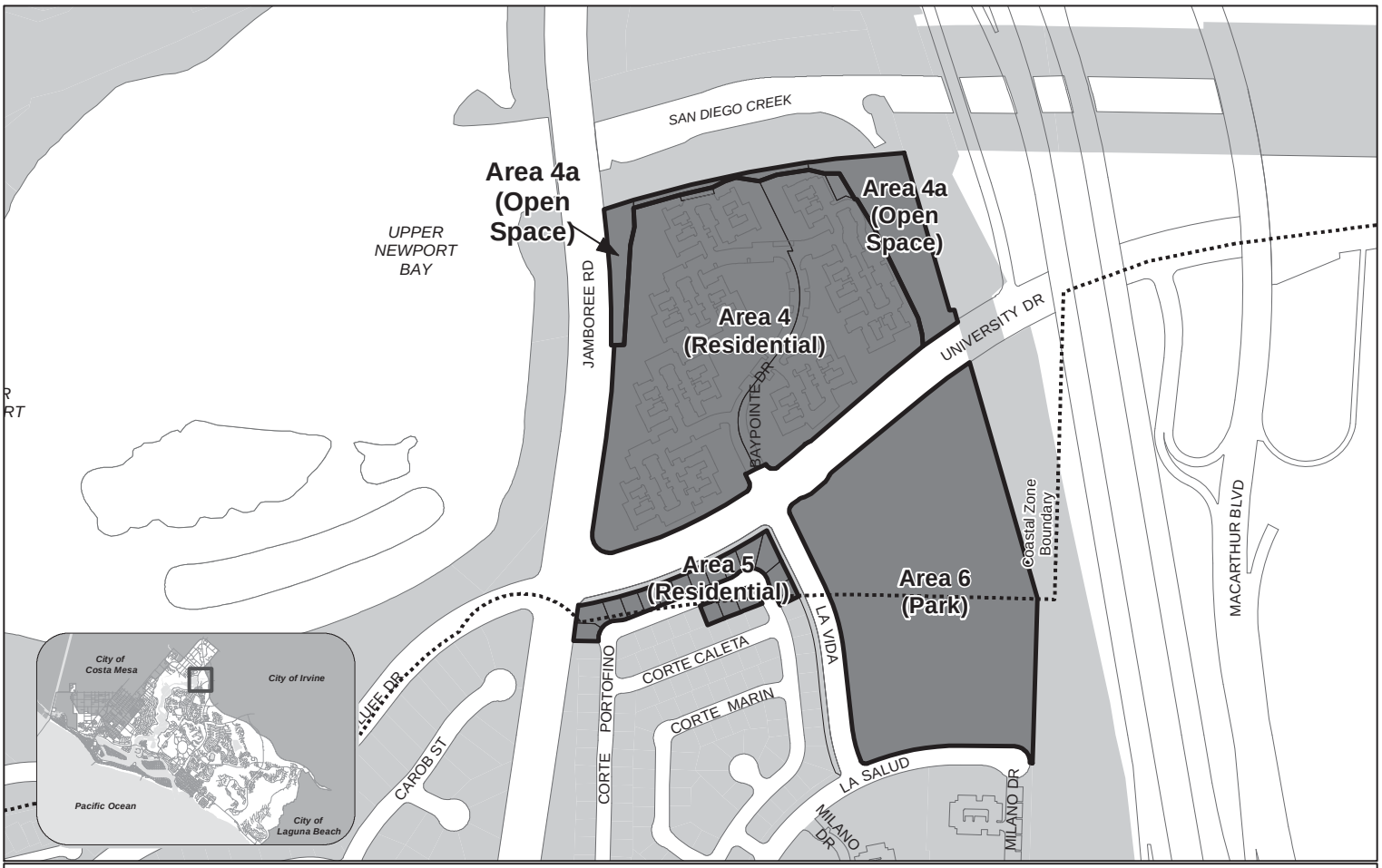
PC-51 Marina Park Planned Community Site Plan



Note: Buildings labeled for identification purposes only

DEVELOPMENT CRITERIA PLAN
HOAG MEMORIAL HOSPITAL PRESBYTERIAN

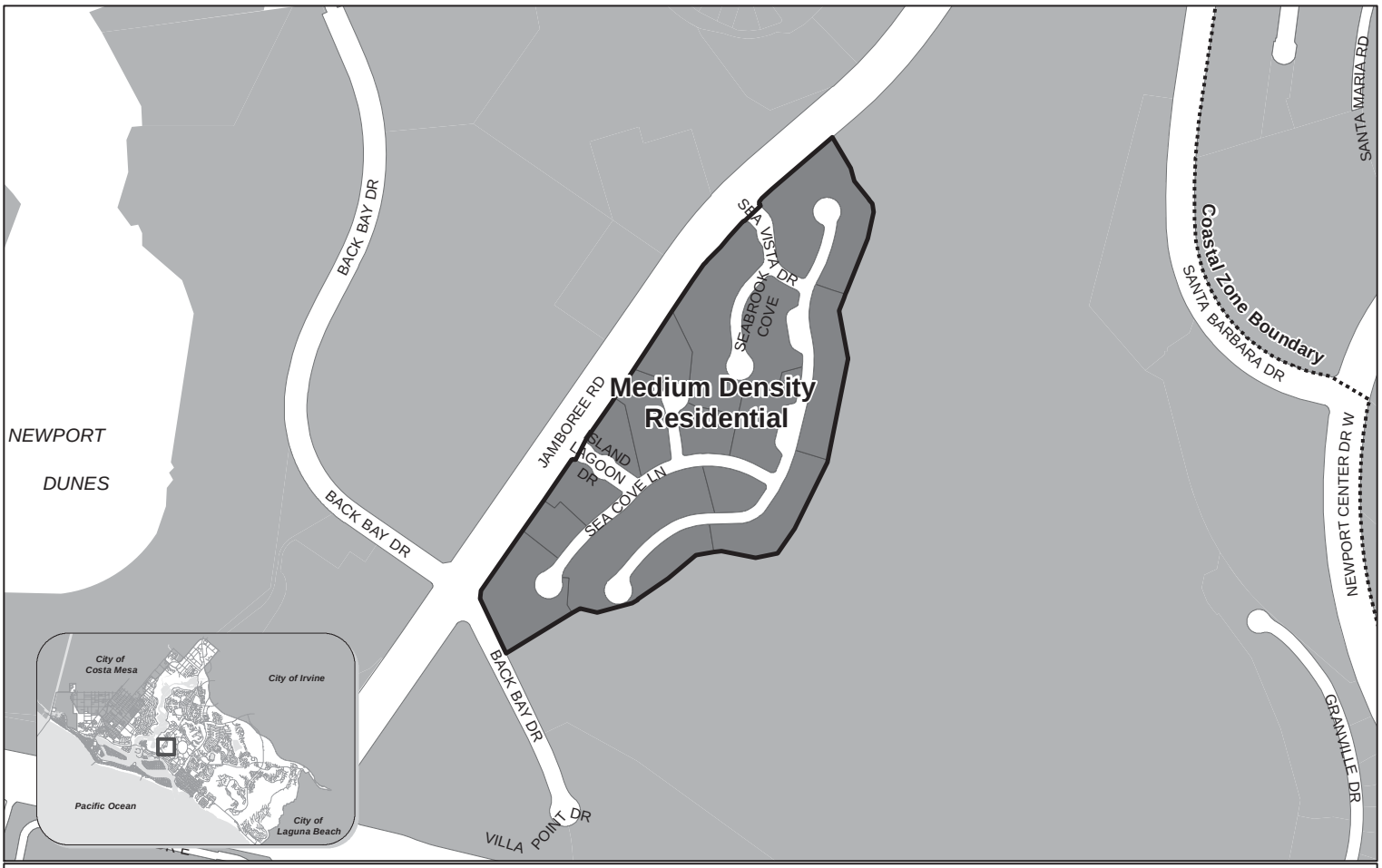
EXHIBIT 3
08.20.07
REVISED 01.22.08



North Ford Land Use (PC-5) DRAFT

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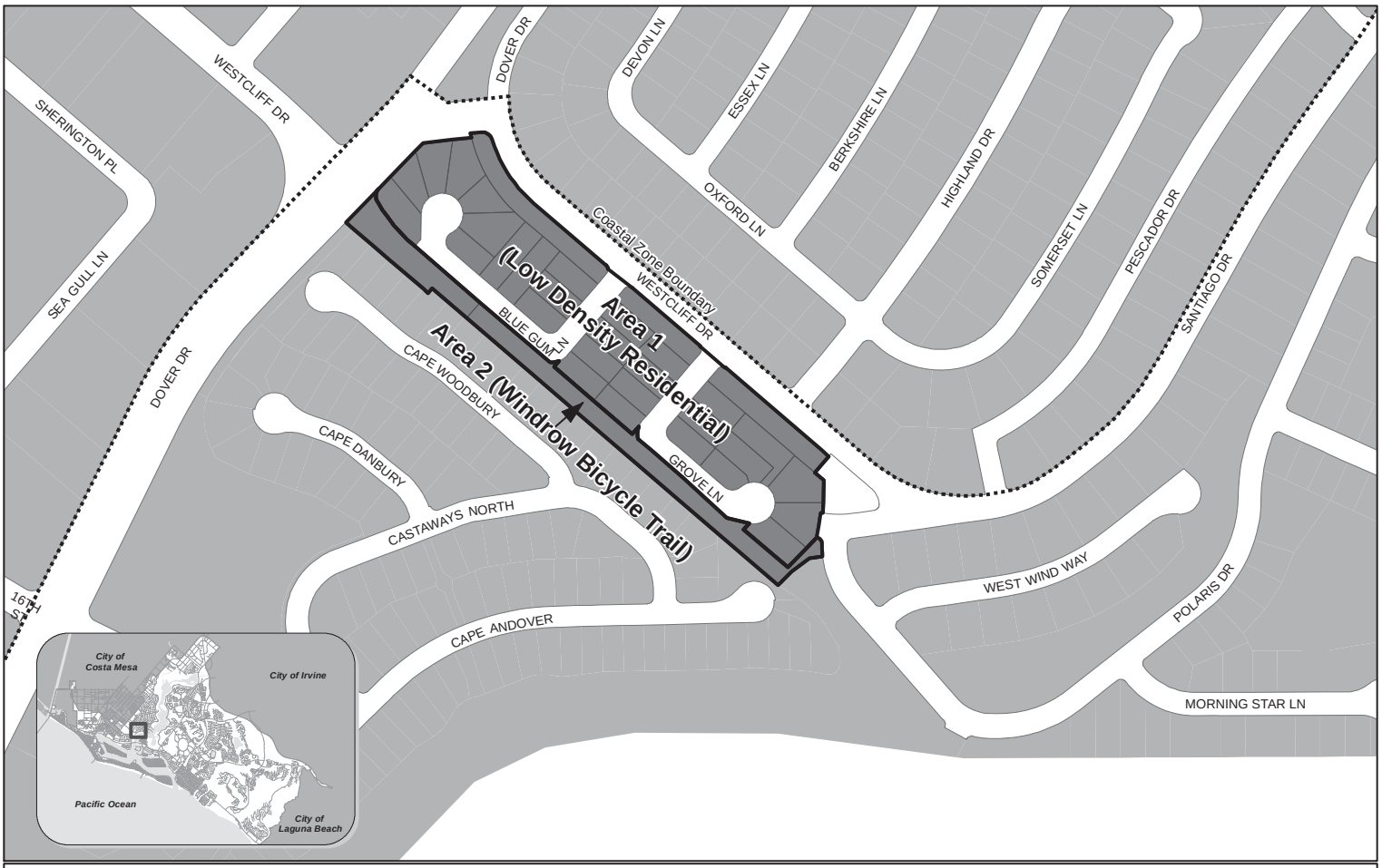
Name: PC-5 _North_Ford_IP / November 2015



Sea Island (PC-21) DRAFT

0 300 600 Feet

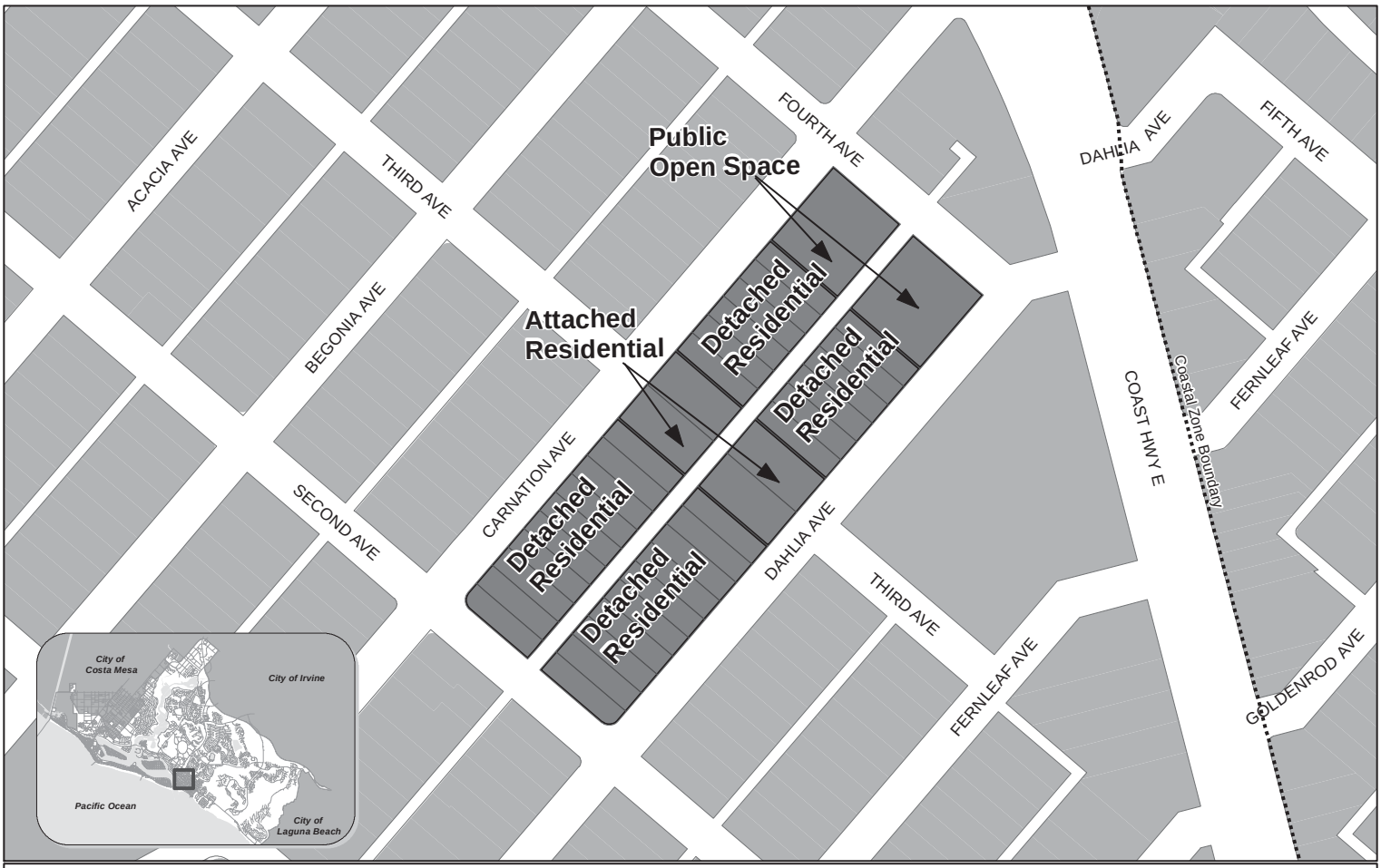
Name: PC-21 _Sea Island_IP / November 2015



Westcliff Grove (PC-22) DRAFT

0 250 500 Feet

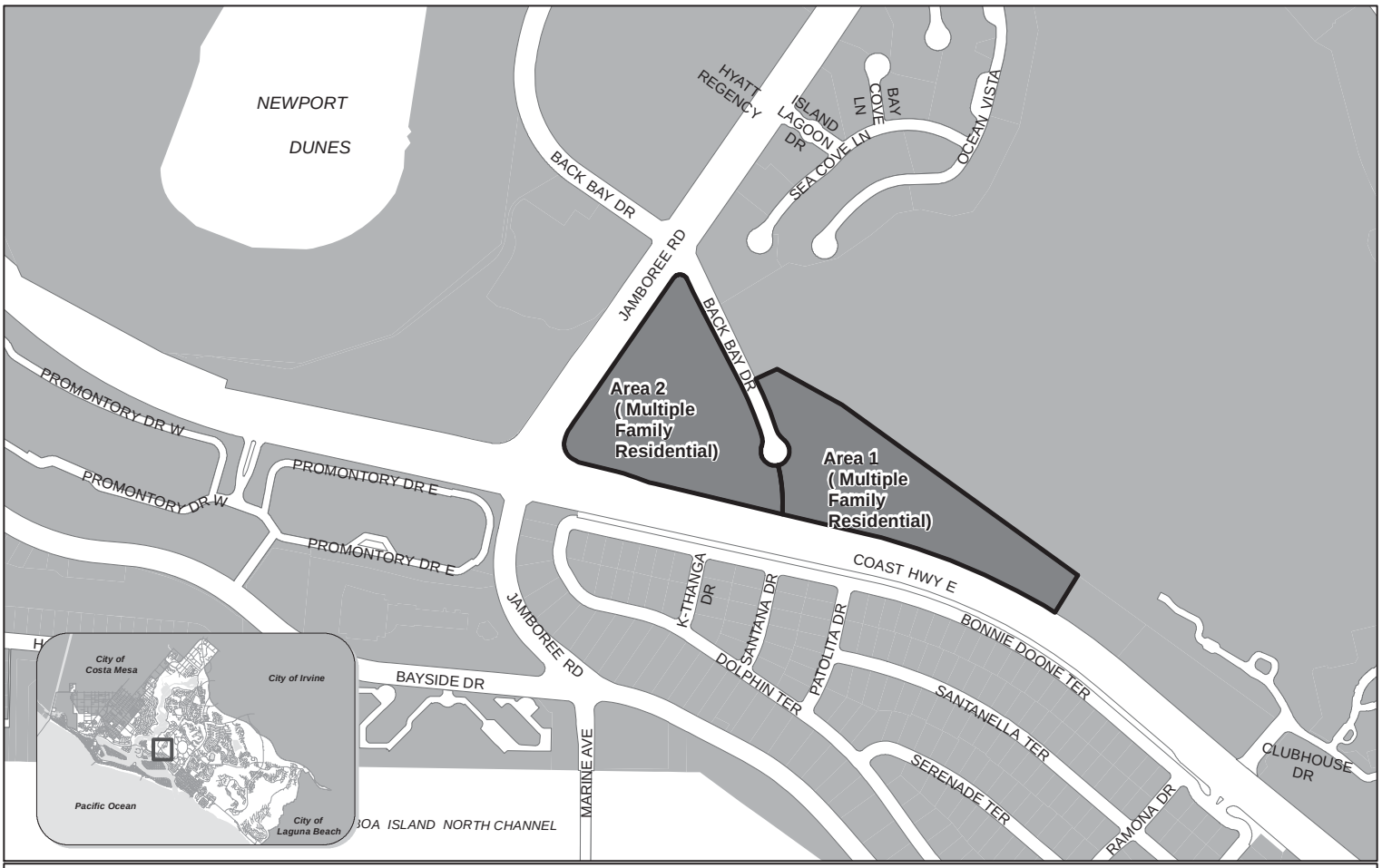
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Corona del Mar Homes (PC-29) DRAFT

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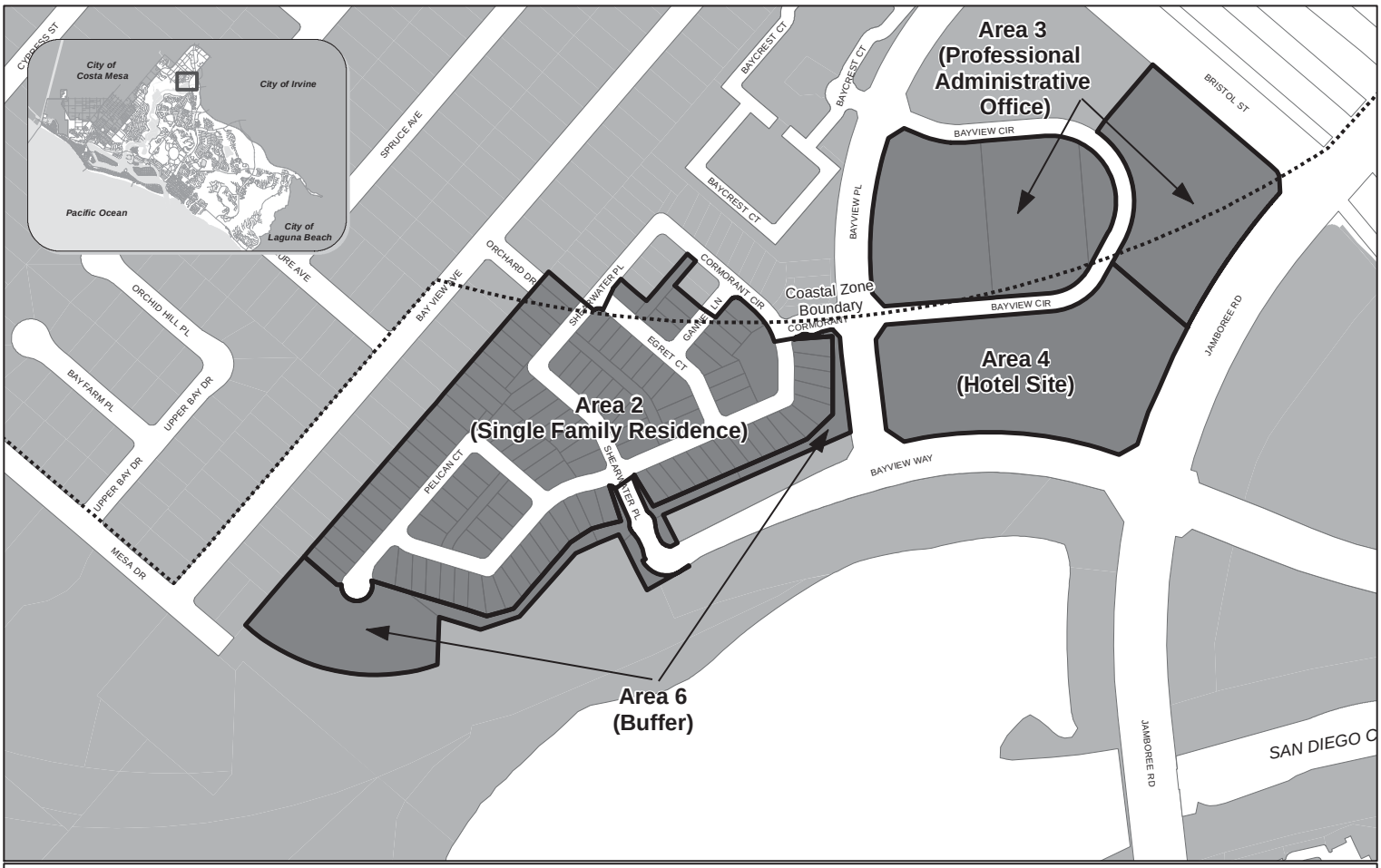
Name: PC-29 _Corona_del_Mar_Homes_IP / November 2015



Villa Point Apartments (PC-30) DRAFT

0 250 500 Feet

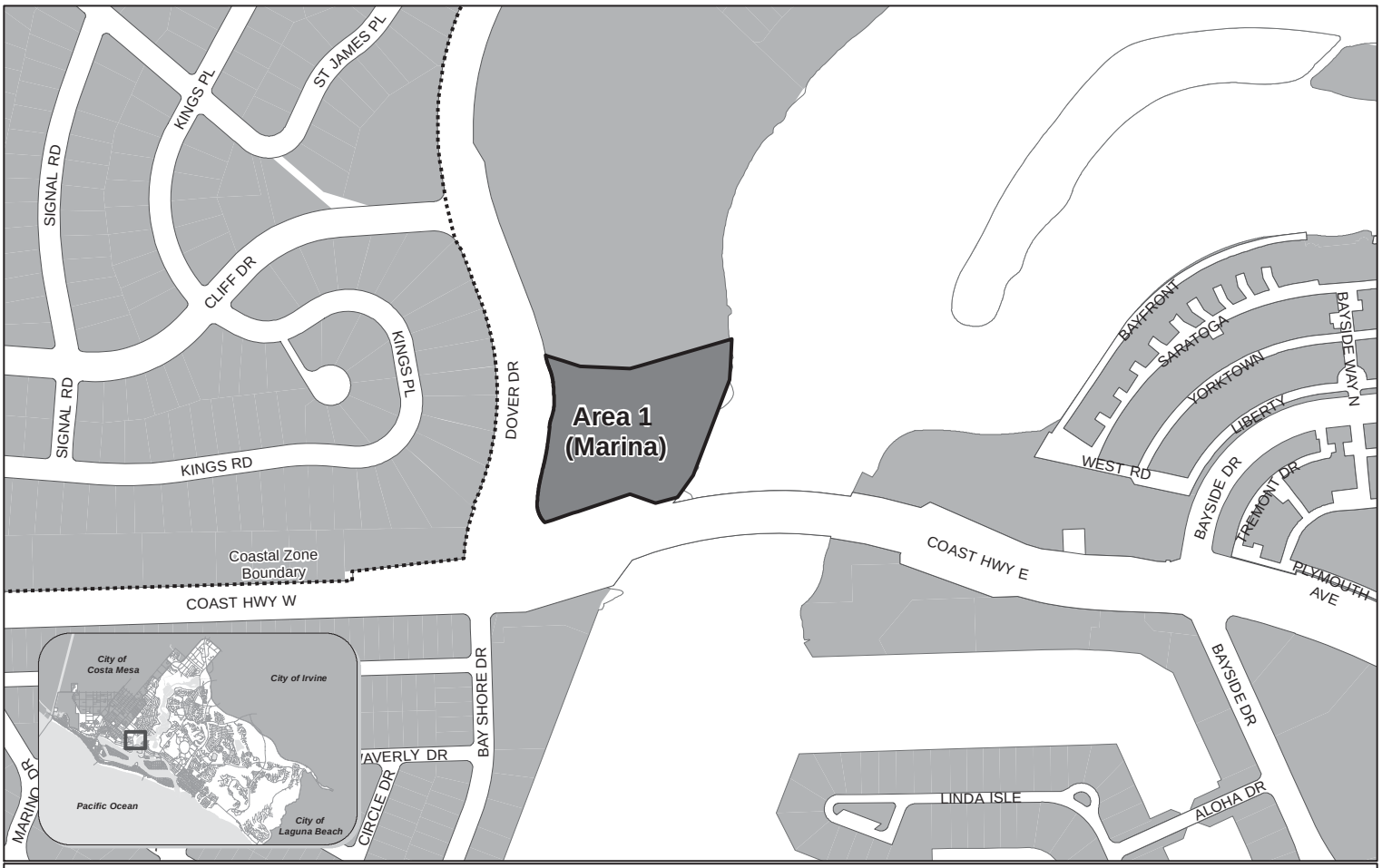
Name: PC-30 _Villa_Point_Apartments_IP / November 2015



Bayview (PC-32) **DRAFT**

0 245 490 Feet

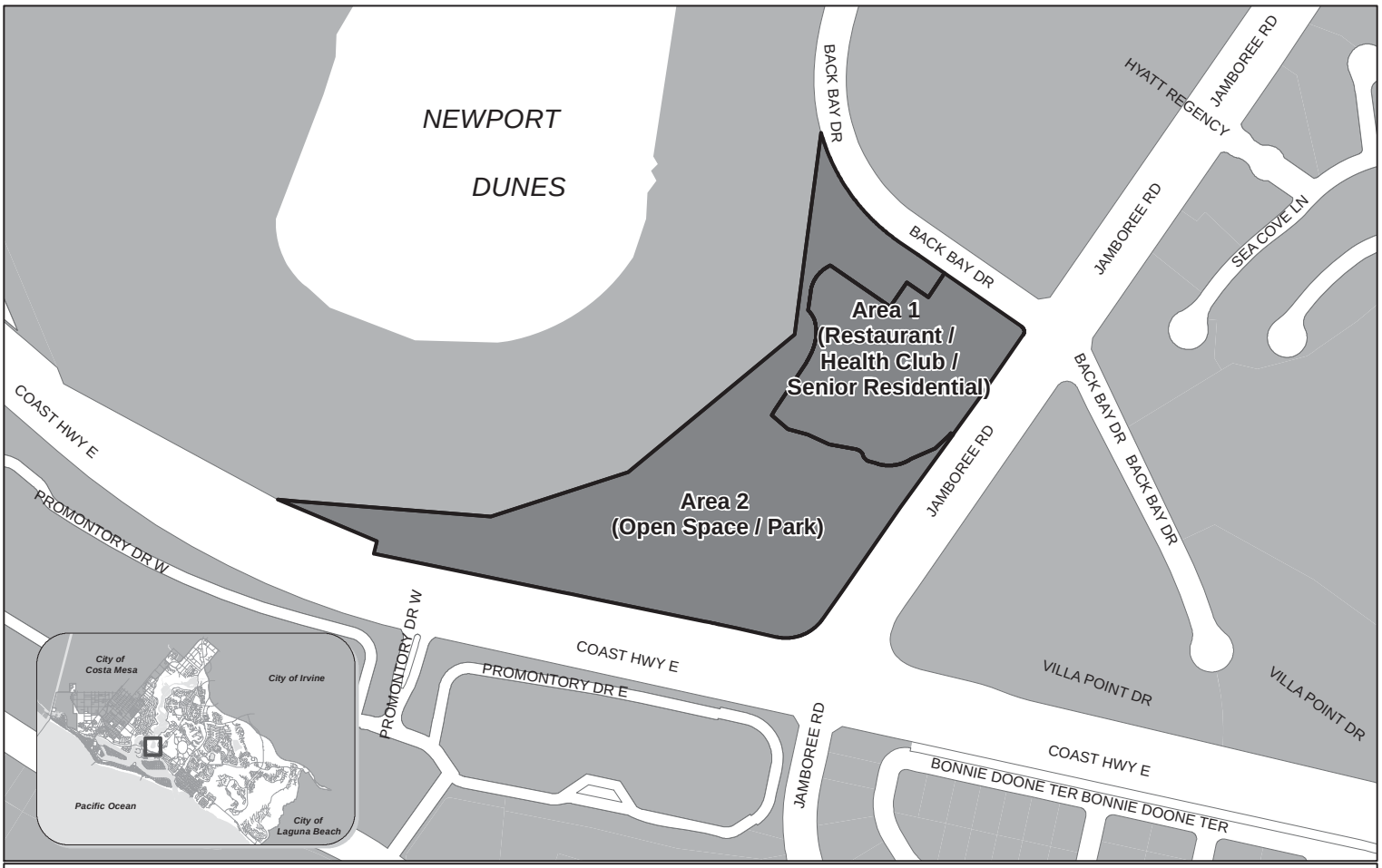
Name: PC-32 _Bayview_IP / November 2015



Castaways Marina (PC-37) DRAFT

0 300 600 Feet

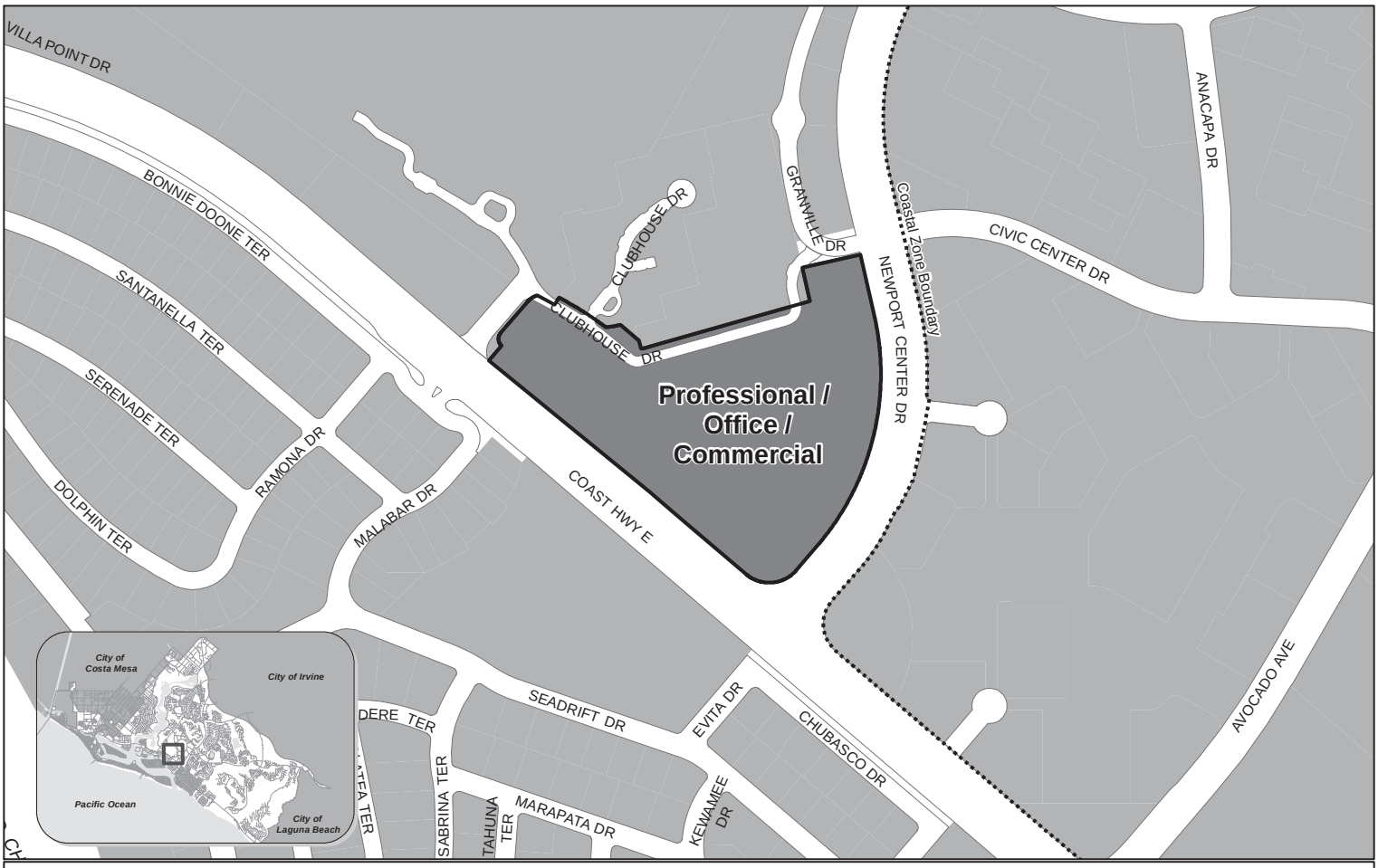
Name: PC-37 _Castaways_Marina_IP / November 2015



Bayview Landing (PC-39) DRAFT

0 250 500 Feet

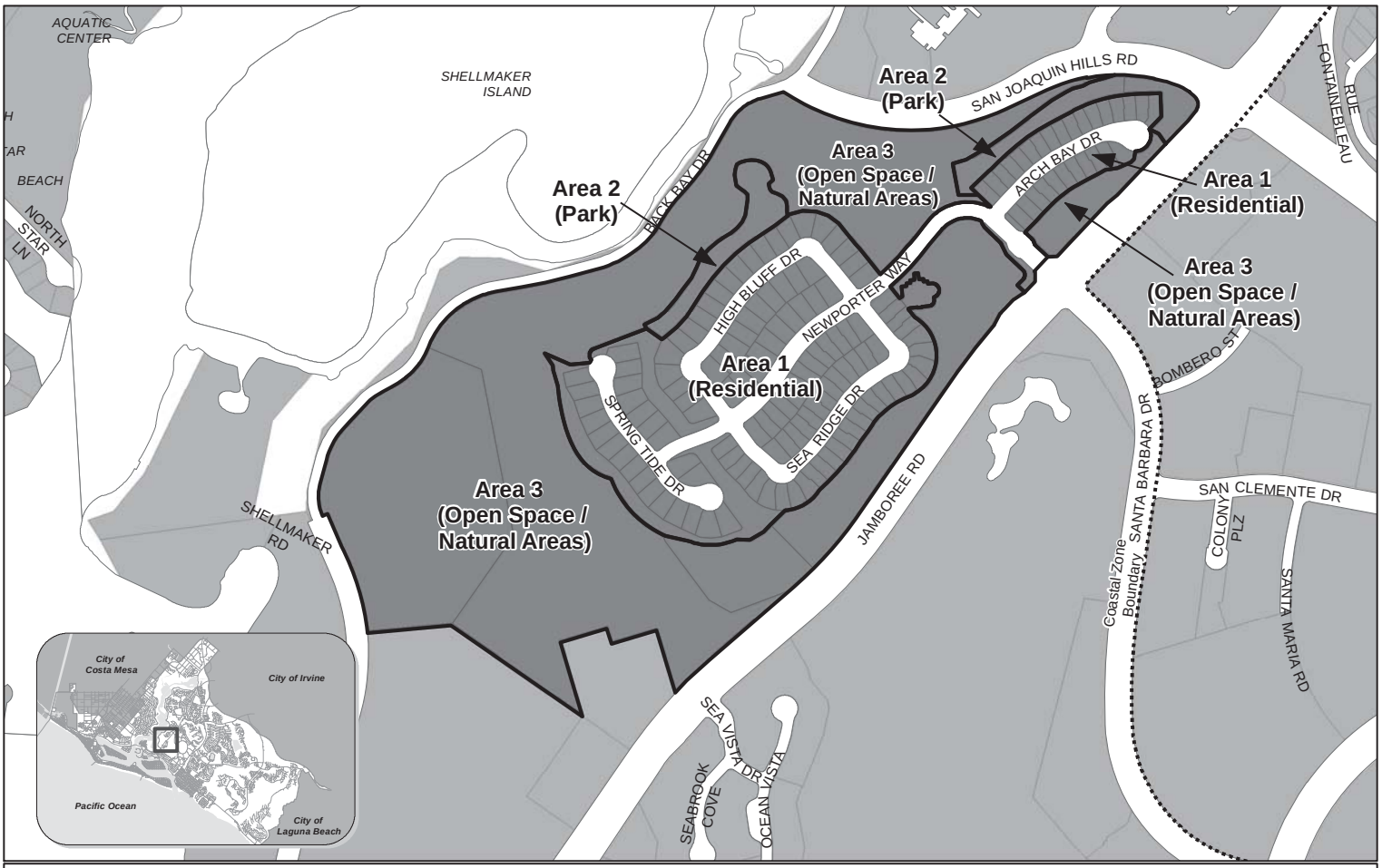
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Corporate Plaza West (PC -40) DRAFT

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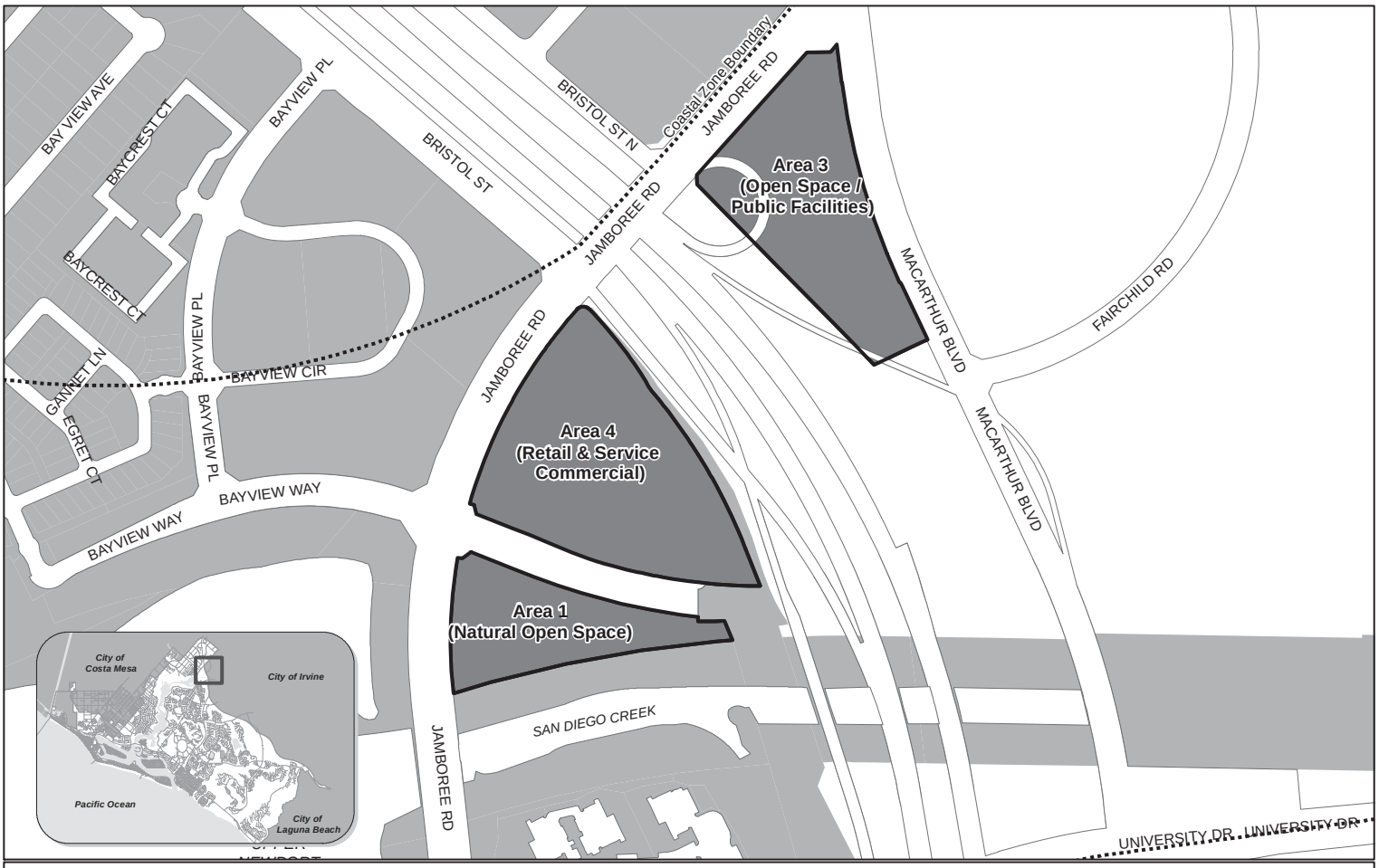
Name: PC-40 _Corporate_Plaza_west_IP / November 2015



Newporter North (PC-41) DRAFT

0 500 1,000 Feet

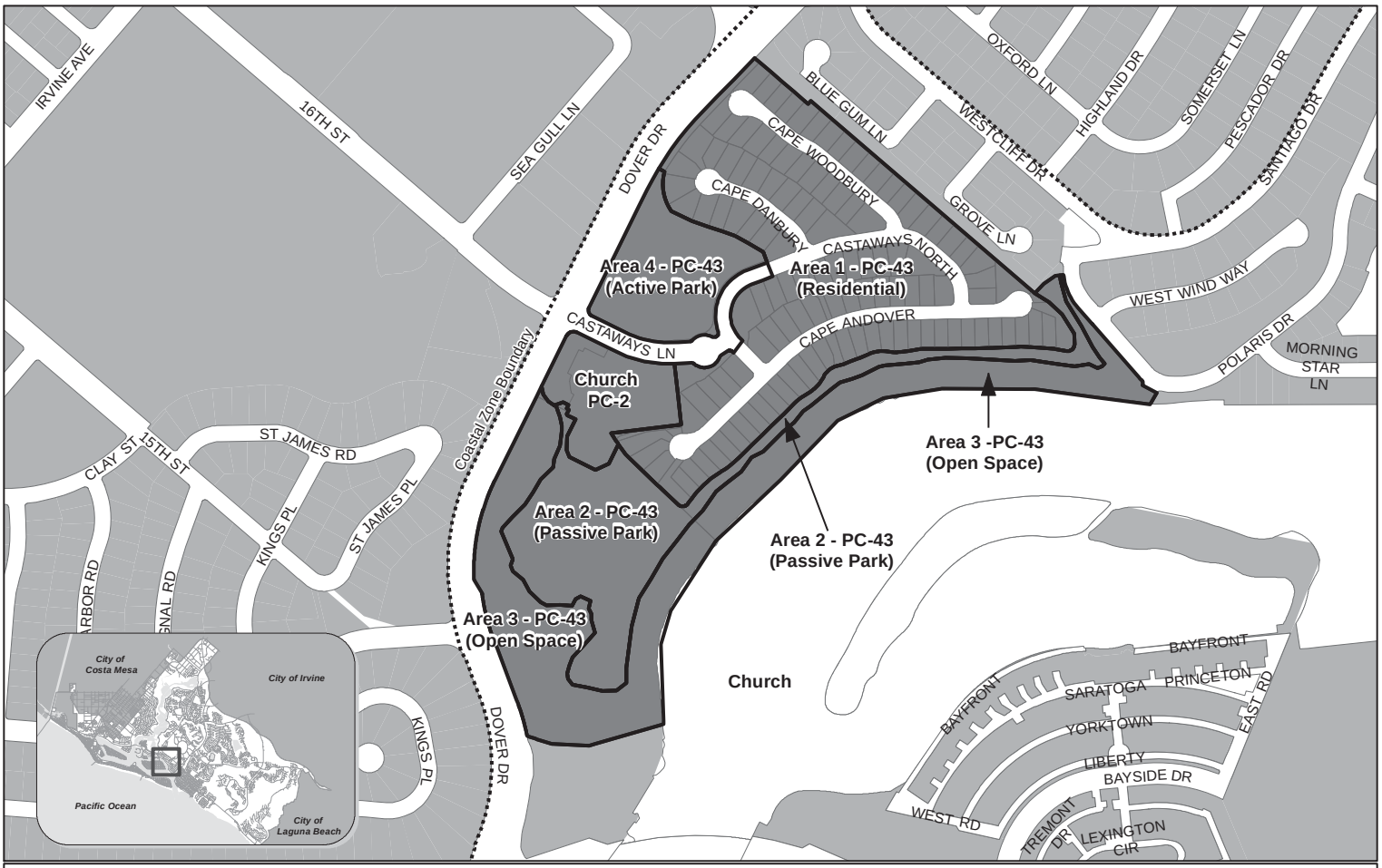
Name: PC-41 _Newporter_North_IP / November 2015



San Diego Creek North (PC-42) DRAFT

0 300 600 Feet

Name: PC-42 _San_Diego_Creek_North_IP November 2015

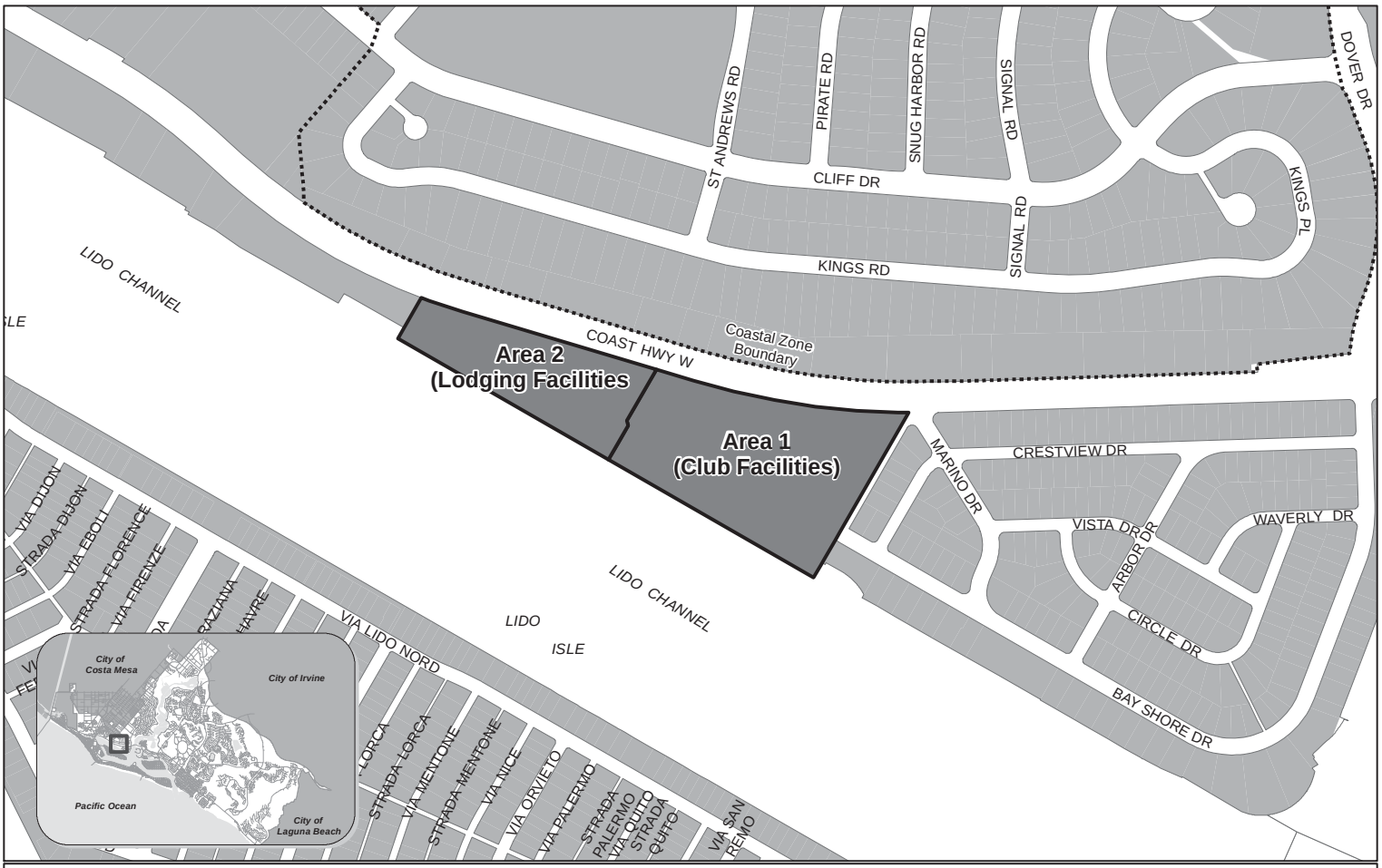


Newport Harbor Lutheran Church (PC-2) DRAFT

Upper Castaways (PC-43)

0 300 600 Feet

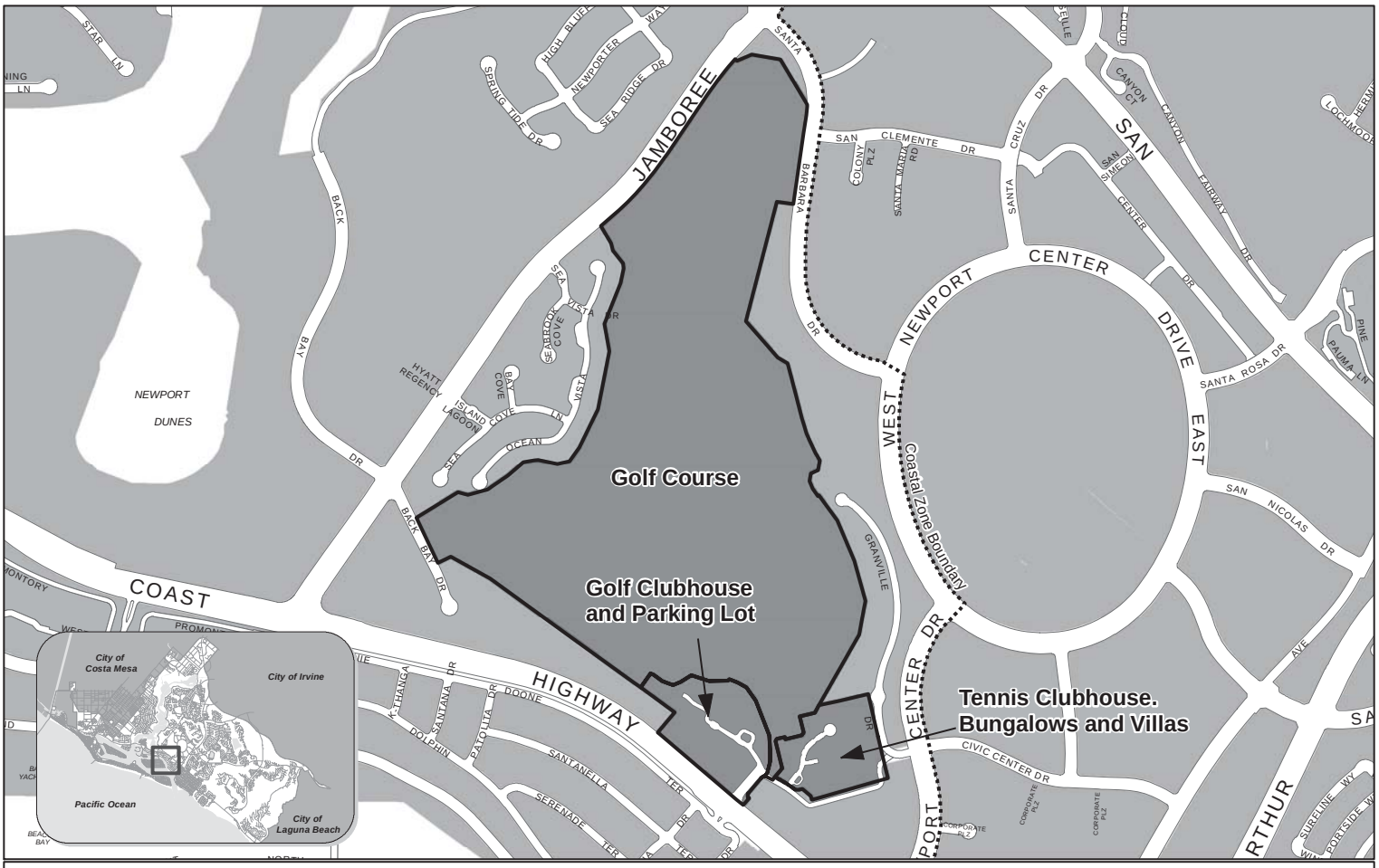
Name: PC-43 _Upper Castaways_IP / November 2015



Balboa Bay Club (PC-45) DRAFT

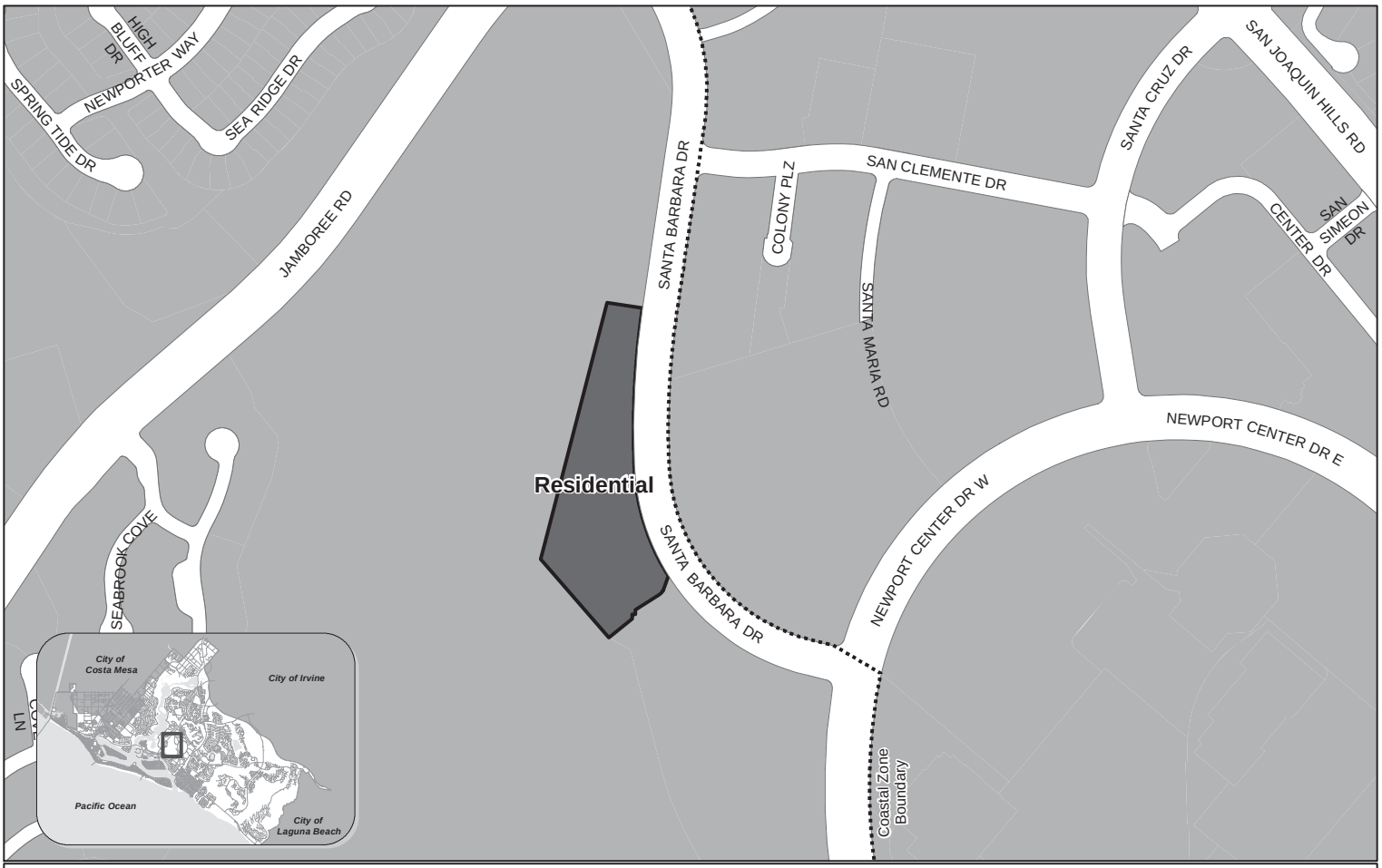
0 295 590 Feet

Name: PC-45 _Balboa Bay Club_IP / November 2015



Newport Beach Country Club (PC-47) DRAFT

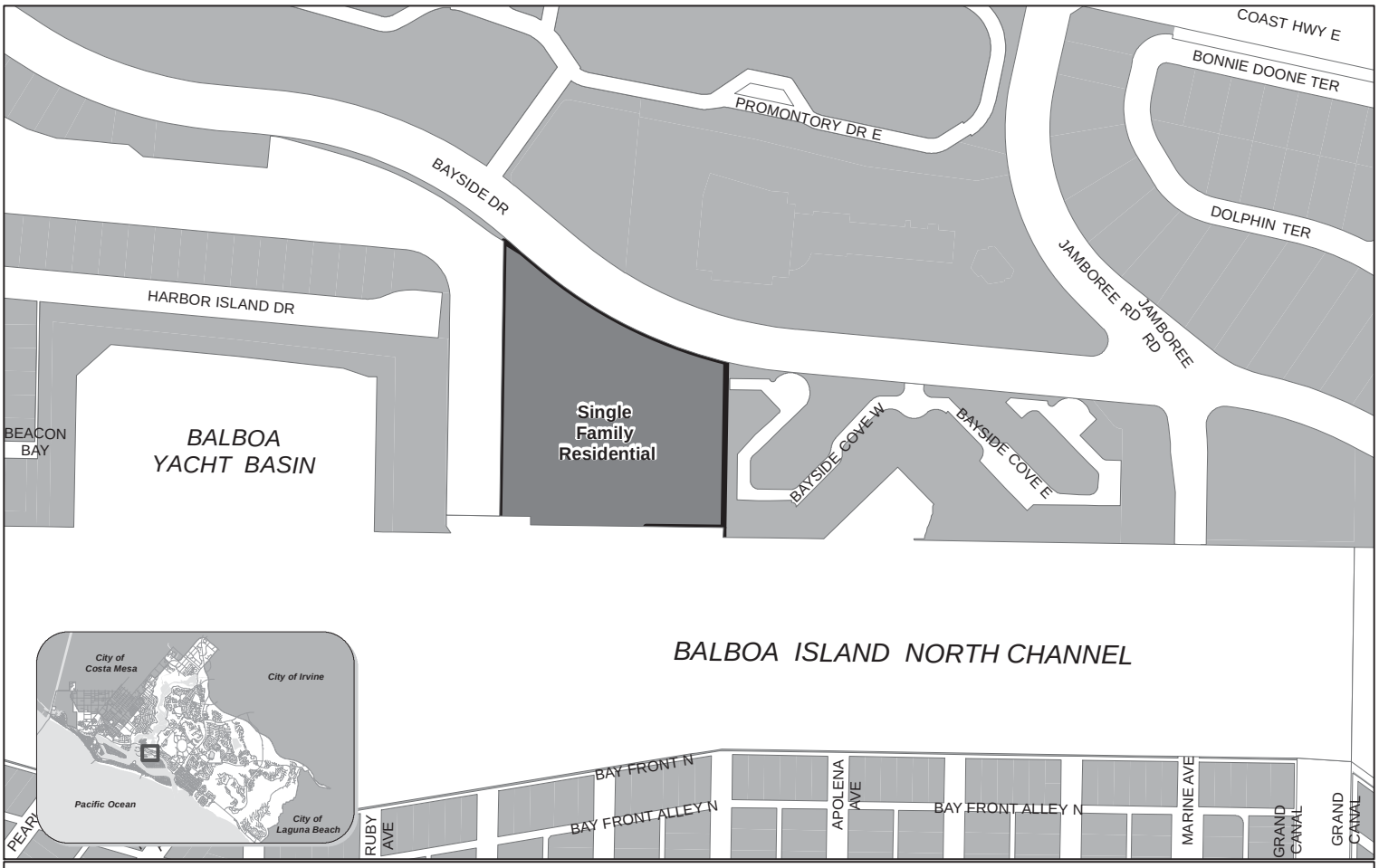
Name: PC-47 _Newport_Beach_Country_Club_IP / November 2015



Santa Barbara Residential (PC-54) DRAFT

0 300 600 Feet

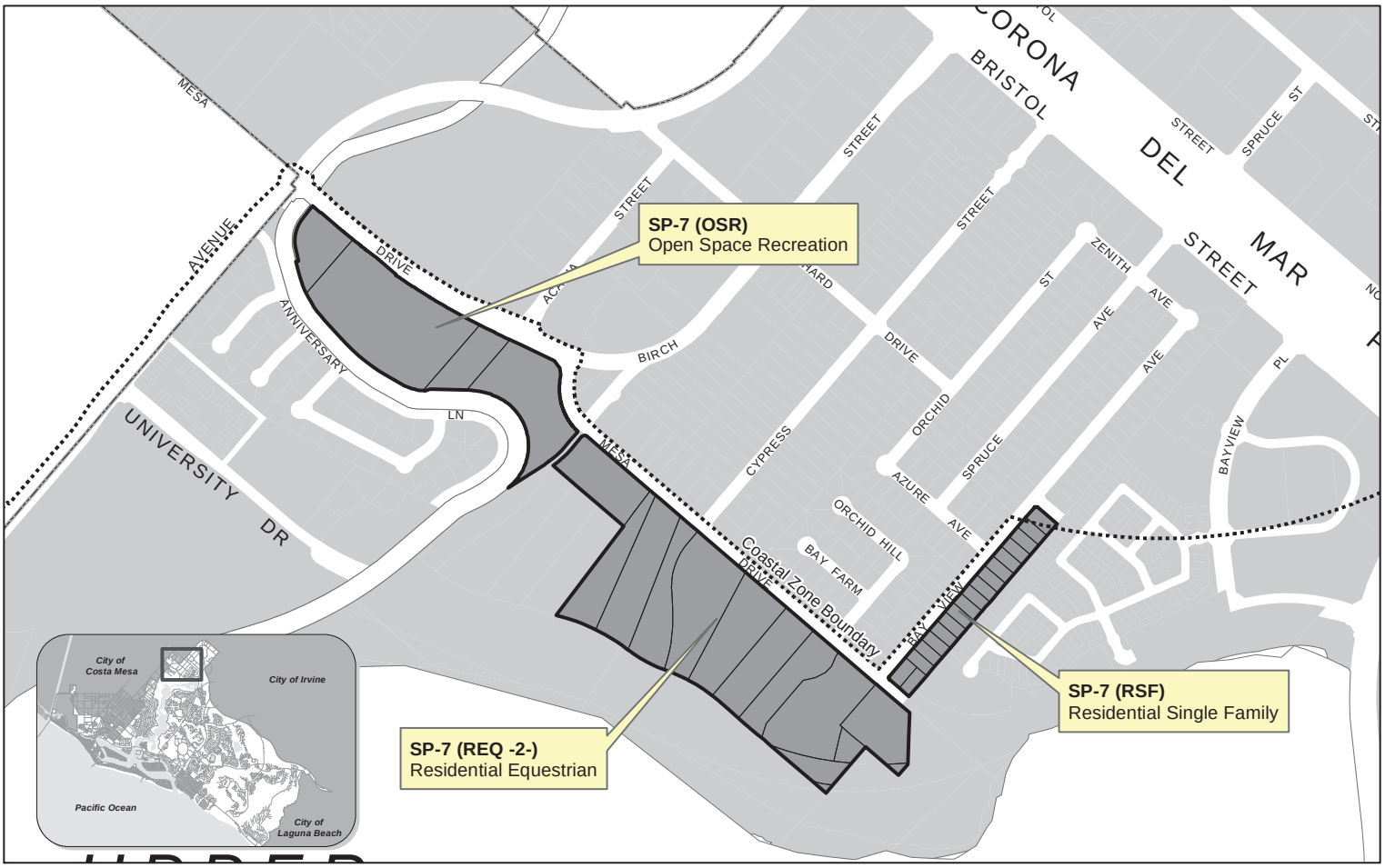
Name: PC-54 _Santa -Barbara_Residential_IP / November 2015



Bayside Residential (PC-55) DRAFT

0 200 400 Feet

Name: PC-55 _Bayside_Residential_IP /November 2015



Specific Plan 7 - Santa Ana Heights (Area within Costal Zone)

DRAFT

Name: SAH_SP_IP / November 2015

Chapter 21.90 – Santa Ana Heights Specific Plan

Sections:

21.90.010 Purpose
21.90.020 Land Use Regulations
21.90.030 Open Space and Recreation District: SP-7 (OSR)
21.90.060 Residential Equestrian District: SP-7 (REQ)

21.90.010 – Purpose

The purpose of the Santa Ana Heights specific plan is to provide for the orderly and balanced development of the community consistent with the specific plan's adopted land use plan and with the stated goals and policies of the Coastal Land Use Plan.

21.90.020 – Land Use Regulations

A. **Land Use Designations.** The following land use designations are established for the Santa Ana Heights specific plan area:

1. Open Space and Recreation District: SP-7 (OSR)
2. Residential Equestrian District: SP-7 (REQ)

Land use and development standards for Santa Ana Heights shall be in accordance with Exhibit 21.90-1, "Land Use Map—Specific Plan District No. 7," and the provisions of this section.

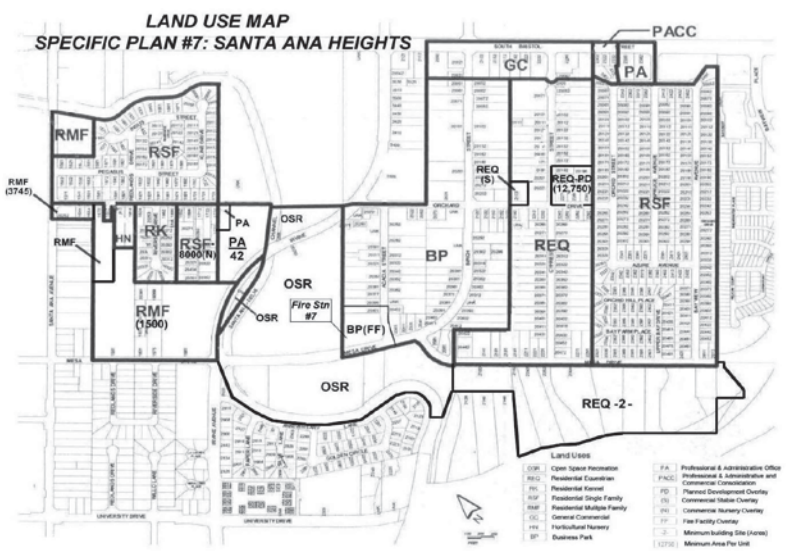


Exhibit 20.90-1: Land Use Map

21.90.030 – Open Space and Recreation District: SP-7 (OSR)

A. **Purpose and Intent.** The SP-7 (OSR) District is established to ensure the long-term use and viability of the Newport Beach Golf Course.

B. **Principal Uses Allowed.**

1. The following principal use is permitted:

   a. Local and buffer greenbelts.

   b. Public/private utility buildings and structures.

   c. Golf courses.

   d. Outdoor commercial recreation.

C. **Accessory Uses Permitted.** Accessory uses and structures are permitted when customarily associated with and subordinate to a principal permitted use on the same building site including:

1. Detached buildings.

2. Fences and walls.

3. Signs per Section 21.30.065.

4. Restrooms.

5. Any other accessory use or structure which the Director finds consistent with the purpose and intent of this District.

D. **Prohibited Uses.** The following uses are specifically prohibited:

1. All uses not listed in this section as permitted.

E. **Site Development Standards.**

1. Building Site Area. One acre minimum.

2. Building Height. Eighteen (18) feet maximum unless otherwise provided for by an approved coastal development permit.

3. Building Setbacks. Twenty (20) feet minimum from all property lines.

4. Off-Street Parking. Per Chapter 21.40.

5. Lighting. All lighting shall be designed and located so that direct light rays are confined to the premises.

21.90.060 – Residential Equestrian District: SP-7 (REQ)

A. **Purpose and Intent.** The SP-7 (REQ) District is established to provide for the development and maintenance of a single-family residential neighborhood in conjunction with limited equestrian uses. A rural character with an equestrian theme shall predominate.

B. **Principal Uses Permitted.**

1. The following principal uses are permitted:

a. Single-family detached dwellings or single-family mobile homes (one per building site).

b. Residential care facilities, small licensed.

c. Parks, playgrounds, and athletic fields (noncommercial).

d. Riding and hiking trails.

e. Small family child care homes (see Section 21.48.070, Day Care Facilities (Adult and Child)).

f. Communication transmitting, reception, or relay facilities.

g. Public/private utility buildings and structures.

h. Large family child care homes.

i. Fire and police stations.

j. Churches, temples, and other places of worship.

k. Educational institutions.

l. Libraries.

m. Any other use which the Planning Commission finds consistent with the purpose and intent of this District.

C. **Temporary Uses Permitted.** The following temporary uses are permitted:

1. Continued use of an existing building during construction of a new building.

2. Mobile home residence during construction.

D. **Accessory Uses Permitted**. Accessory uses and structures are permitted when customarily associated with and subordinate to a principal permitted use on the same building site including:

1. Garages and carports.

2. Swimming pools.

3. Fences and walls.

4. Patio covers.

5. Signs per Section 21.30.065.

6. Home occupations.

7. The keeping of the following animals for the recreational enjoyment of persons residing on the same building site, subject to the noted restrictions:

a. Any animal if kept exclusively within the residence.
b. Horses and ponies, limited to the following (offspring exempt up to the age of eight months):

Size of Building Site (sq. ft.)	Maximum Number Permitted
Less than 10,000	1
10,000 to 15,000	2
Greater than 15,000	3 to 6

c. Goats, sheep, pigs and cows only on building sites greater than fifteen thousand (15,000) square feet in size and limited to: (i) no more than two adult animals of any one species per building site and (ii) no more than a total of six adult animals, including horses and ponies, per building site. Offspring are exempt until such time as they are weaned.

d. Rabbits, chickens and ducks, limited to no more than a total of six of such animals per building site.

e. Up to three dogs and three cats. Offspring are exempt up to the age of four months. The keeping of four or more dogs or four or more cats over the age of four months is also permitted subject to obtaining an animal permit per County health regulations.

f. Minimum setbacks for the keeping of animals shall be as follows:

	From Ultimate Street Right-of-Way Line		**From Property Line Abutting RSF or BP Districts**		**From Property Line Abutting REQ District**	
	Front	Side	Front	Side	Front	Side
All structures housing animals (e.g., corrals, pens, stalls, cages, doghouses)	50	20	25	25	5*	5*
Exercise areas	25	10	0	0	0	0

* Required for covered portions of structures only.

8. Granny unit, attached or detached.

9. Any other accessory use or structure which the Director finds consistent with the purpose and intent of this District.

E. **Prohibited Uses.** The following uses are specifically prohibited:

1. All uses not listed in this section as permitted.

2. The storage of vehicles, equipment, or products related to commercial activities not permitted in this District.

3. The keeping of animals for any commercial purpose except in the Commercial Stable (S) District, where applicable.

4. Commercial kennels.

5. Apiaries.

6. Aviaries.

F. **Site Development Standards.**

1. **Minimum Building Site Area.** Two (2) acres.

2. **Building Height.** Thirty-five (35) feet maximum. Roof-mounted mechanical equipment shall not be visible from any existing dwelling unit located three hundred (300) feet or less from the subject building site.

3. **Building Setbacks.**

   a. Front Setback. Twenty (20) feet minimum.

   b. Side Setback. Five feet minimum.

   c. Rear Setback. Twenty-five (25) feet minimum.

3. **Off-Street Parking.** Per Chapter 21.40.

5. **Lighting.** All lighting shall be designed and located so that direct light rays are confined to the premises.

Plain Text and **Plain Bolded Text** = City-proposed IP language

Underlined Text = Inserted Language, CCC Suggested Modification

~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Appendix A – Sea Level Rise

I. **Purpose.** To ensure that sea level rise is adequately addressed in the review of coastal development permit applications and in future updates and amendments to the City's Local Coastal Program (LCP).

II. **Introduction**. Climate change and sea level rise have the potential to significantly threaten many resources within the City's coastal zone, including shoreline development, coastal beach access and recreation, habitats, and scenic resources. These resources are subject to specific protections and regulations in the Coastal Act and the City's LCP.

Given that the width of the City's beaches varies between fifty and six-hundred (50 and 600) feet, a sea level rise of as little as six (6) inches may have a negative impact on the low-lying areas around Newport Bay that are not protected by bulkheads and seawalls. Seawalls and bulkheads may also themselves cause coastal resource impacts by causing flooding and eventual loss of areas seaward of the structure that would otherwise migrate inland, such as beaches —a process often called "coastal squeeze." Sea level rise may also cause increased coastal bluff retreat in the southern portion of the City where the beaches are narrow, and the surf pounds at the base of the bluffs, eroding away the soft bedrock that forms the cliffs.

The potential impacts of sea level rise include loss of recreational beaches due to accelerated erosion, loss of waterfront property through erosion and inundation of low-lying areas, the loss of coastal bluff property through increased bluff retreat, and the loss of and changes to natural habitats in the Upper Newport Bay, Semeniuk Slough, and other low-lying natural areas. In addition, there could be severe social and economic hardships associated with the loss or relocation of visitor-serving, recreational, and coastal-dependent and coastal-related businesses and facilities.

III. **City's Plan of Action.** The City understands there is a threat of flooding and inundation in and around Newport Harbor due to sea level rise. Acknowledging the considerable uncertainty in the magnitude of the rise in sea level, the City intends to undertake a proactive program to monitor the rate of sea level rise and be prepared to implement a ~~series of actions based on the actual rise in sea level~~ both now and in the future. ~~Those~~ A vulnerability assessment will be prepared to help develop a long-term adaptation strategy. In both the short and long-term, potential actions may include requiring proper siting and maintenance of public and privately–owned seawalls ~~be properly maintained~~; requiring public and privately–owned seawalls caps be extended per City standards; revising City standards for new seawall, top-of-seawall elevation and finished floor elevations; studying ways to provide and maintain public access to beaches, docks and piers; and monitoring and replenishing beach sand loss in the harbor and along the ocean.

The efforts of the City, both immediately and long-term, are directly in accordance with the Coastal Land Use Plan policies which are listed below:

2.8.6-1. Prepare and periodically update comprehensive studies of seasonal and long-term shoreline change, episodic and chronic bluff retreat, flooding, and local changes in sea levels, and other coastal hazard conditions.

2.8.6-2. Continue to monitor beach width and elevations and analyze monitoring data to establish approximate thresholds for when beach erosion or deflation will reach a point that it could expose the backshore development to flooding or damage from storm waves.

2.8.6-3. Develop and implement a comprehensive beach replenishment program to assist in maintaining beach width and elevations. Analyze monitoring data to determine nourishment priorities, and try to use nourishment as shore protection, in lieu of more permanent hard shoreline armoring options.

2.8.6-4. Maintain existing groin fields and jetties and modify as necessary to eliminate or mitigate adverse effects on shoreline processes.

2.8.6-5. Permit revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls and other structures altering natural shoreline processes or retaining walls when required to serve coastal-dependent uses or to protect existing principal structures or public beaches in danger from erosion and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply, unless a waiver of future shoreline protection was required by a previous coastal development permit.

2.8.6-6. Design and site protective devices to minimize impacts to coastal resources, minimize alteration of natural shoreline processes, provide for coastal access, minimize visual impacts, and eliminate or mitigate adverse impacts on local shoreline sand supply.

2.8.6-7. Discourage shoreline protective devices on public land to protect private property/development. Site and design any such protective devices as far landward as possible. Such protective devices may be considered only after hazard avoidance, restoration of the sand supply, beach nourishment and planned retreat are exhausted as possible alternatives.

2.8.6-8. Limit the use of protective devices to the minimum required to protect existing development and prohibit their use to enlarge or expand areas for new development or for new development. “Existing development” for purposes of this policy shall consist only of a principle structure, e.g. residential dwelling, required garage, or second residential unit, and shall not include accessory or ancillary structures such as decks, patios, pools, tennis courts, cabanas, stairs, landscaping etc.

2.8.6-9. Require property owners to record a waiver of future shoreline protection for new development during the economic life of the structure (75 years) as a condition of approval of a coastal development permit for new development on a beach, shoreline, or bluff that is subject to wave action, erosion, flooding, landslides, or other hazards associated with development on a beach or bluff. Shoreline protection may be permitted to protect existing structures that were legally constructed prior to the certification of the LCP, unless a waiver of future shoreline protection was required by a previous coastal development permit.

2.8.6-10. Site and design new structures to avoid the need for shoreline and bluff protective devices during the economic life of the structure (75 years).

Future Steps

Based on the expected rate of sea level rise, the City staff will revise existing or devise new policies for consideration by City Council and incorporation into the LCP through a future LCP amendment. Current policies that could be revised include changes to the minimum finished floor elevation, maximum roof heights, setbacks, public access requirements, existing or new seawall requirements including associated mitigation requirements, and drainage requirements.

As part of a future LCP update, the City will conduct a sea level rise vulnerability assessment for the City's entire coastal zone. Recent peer reviewed science indicates that, in the next few decades, most sea level rise impacts will be experienced during extreme events like El Niños and storms. Therefore, monitoring tide gauges alone will not be sufficient to predict and prepare for those impacts. Further, development decisions made today will affect vulnerabilities of that development decades from now. Structures with a long "lifetime", high sensitivity, or low adaptive capacity should be sited in locations that avoid sea level rise-related hazards for their economic lifetimes, and those siting and design decisions should be made using best available information on the projected future risks of sea level rise.

A future vulnerability assessment will include the geographic extent of the public tidelands granted to the City, as required by AB 691, as well as development within the entire coastal zone. Such a study will use the current best available science[1] regarding projections of sea level rise and use scenario based analysis to consider potential amounts of future sea level rise. The vulnerability assessment will help the City prepare an LCP update that implements additional actions based on the actual rise in sea level as well as in response to expected future impacts, where appropriate. Those actions will include strategies that minimize coastal hazards and maximize protection of coastal resources including but not limited to public access within State tidelands.

The City will continue to analyze the potential impacts of sea level rise on the community and will consider policies and corresponding development standards for public review and discussion. The City will also coordinate with local and regional partners to share information and adaptation planning ideas related to sea level rise. ~~This~~ Information gained from analysis of wave-runup and flooding potential for individual development projects will be used along with the City-wide vulnerability assessment to develop Local Coastal Program ~~may also require appropriate~~ amendments, which will require review and approval by the Coastal Commission.

IV. Review of Coastal Development Permits.

Upon certification of the Local Coastal Program, the City will issue coastal development permits, based on policies and standards contained therein.

[1] At the time of the drafting of this Implementation Plan, the National Research Council's 2012 report, *Sea-Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future* (NCR 2012) is considered the best available science on sea level rise in California.

The City will use the best-available science to determine a range of sea level rise projections for use in reviewing coastal development permit applications. Sea level rise science continues to evolve, and some processes that are not fully understood may potentially have large effects on future sea level rise. Therefore, the City will re-examine the best available science periodically in conjunction with the release of new information on sea level rise. The City will consider relevant science that is current, peer-reviewed, and widely accepted among the scientific community, such as the newly developed FloodRISE project from UC Irvine.

The National Research Council's 2012 report, *Sea-Level Rise for the Coasts of California, Oregon and Washington: Past, Present and Future* (NRC 2012) provides sea level rise projections of 2-12 inches by 2030, 5-24 inches by 2050, and 17-66 inches by 2100 for Southern California. Sea level rise amounts expected by years other than 2030, 2050, and 2100 should be calculated by interpolating or extrapolating data points using best fit equations. Sea level rise projections that match the anticipated project life of the development under consideration should be used.

In its review of coastal development permits, the following policy shall be ~~taken into consideration~~ implemented in addition to the relevant policies stated in Section III.

> **2.8.3-1.** Require all coastal development permit applications for new development on a beach or on a coastal bluff property subject to wave action to assess the potential for flooding or damage from waves, storm surge, or seiches, through a wave uprush and impact reports prepared by a licensed civil engineer with expertise in coastal processes. The conditions that shall be considered in a wave uprush study are: a seasonally eroded beach combined with long-term (75 years) erosion; high tide conditions, combined with long-term (75 year) projections for sea level rise; storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

Applicability. Sea level rise should be considered in the review of a CDP when the project is in an area that is reasonably expected to be impacted by sea level rise over the lifetime of the new development, including but not limited to areas on low-lying land, on eroding coastal bluffs, or are in proximity to water. These include:

- "Low-lying land" areas include the Semeniuk Slough, West Newport, Lido Peninsula, Balboa Peninsula, Bay Island, Balboa Island, Little Balboa Island, Collins Island, Balboa Coves, Mariners' Mile, Balboa Bay Club Resort, Bay Shores, Harbor Island, and Beacon Bay.

- "Eroding coastal bluffs" include those along Ocean Boulevard in Corona del Mar and in Shorecliffs and Cameo Shores.

- "Proximity to water" includes all of the above areas and shoreline properties in Newport Shores, Newport Island, Lido Isle, Harbor Island, Bayside, Carnation Cove, China Cove, Bayside Village, Newport Dunes, and Dover Shores.

To facilitate this review, the following steps/analysis shall be ~~considered~~ required in developing the application submittal.

Step 1 Establish the projected sea level rise range for the proposed project's planning horizon (life of project) using the current best available science.

Step 2 For each sea level rise scenario identified in Step 1, ~~D~~determine how physical impacts from sea level rise may impact the project site, including erosion, structural and geological stability, flooding and inundation.

1. **Wave Uprush and Wave Impacts (see Section 21.30.015.C.~~3~~4)**. The wave uprush and wave impact the analysis should identify risks that potentially could occur over the anticipated life of the project from 1) a seasonally eroded beach combined with long term (75-year) erosion, including accelerated erosion rates resulting from sea level rise; 2) high tide conditions, combined with long-term (75 year) projections for sea level rise; and 3) storm waves from a 100-year event or a storm that compares to the 1982/83 El Niño event.

2. **Geologic Stability (see Section 21.30.015.C.~~4~~5)**. Geologic stability reports should analyze site-specific stability and structural integrity without reliance upon existing or new protective devices (including cliff-retaining structures, seawalls, revetments, groins, buried retaining walls, and caisson foundations) that would substantially alter natural landforms along bluffs and cliffs. Geologic stability can include, among others, concerns such as landslides, slope failure, liquefiable soils, and seismic activity. In most situations, the analyses of these concerns will be combined with the erosion analysis to fully establish the safe developable area.

3. **Erosion**. The erosion analysis should establish the extent of erosion that could occur from current processes, as well as future erosion hazards associated with the identified sea level rise scenarios over the life of the project. If possible, these erosion conditions should be shown on a site map, and the erosion zone, combined with the geologic stability concerns, can be used to help establish locations on the parcel or parcels that can be developed without reliance upon existing or new protective devices (including cliff-retaining structures, seawalls, revetments, groins, buried retaining walls, and caissons) that would substantially alter natural landforms along bluffs and cliffs.

4. **Flooding and Inundation**. The flooding or inundation analysis should identify the current tidal datum and include analysis of the extent of flooding or inundation that potentially could occur from the identified sea level rise scenarios.

5. **Other Impacts**. Any additional sea level rise related impacts that could be expected to occur over the life of the project, such as saltwater intrusion should be evaluated. This may be especially significant for areas with a high groundwater table such as wetlands or coastal resources that might rely upon groundwater.

Step 3 Determine how the project may impact coastal resources, considering the influence of sea level rise over the life of the project. Resources to

consider shall include public access and recreation, coastal habitats, water quality, archaeological/paleontological resources and scenic resources.

Step 4 Seek alternatives to avoid resource impacts and minimize risk to the project, such as increasing heights of sea walls or finished floor elevations.

Step 5 In conjunction with the approval of the CDP, appropriate conditions of approval will be placed on the project.

Appendix B – Coastal Access Signing Program

I. **Sign Guidelines**.

a. Signs should be place to allow safe pedestrian clearance and should avoid conflict with door opening or vehicular operation. Signs should be located to be easily read, and placed to provide safe stopping or turning distance. Height should normally be 40 inches from the ground to the bottom of a single sign and 36 inches from the ground to the bottom of a double sign. Signs along walkways should be set back a minimum of 18 inches.

b. Signing should be consolidated wherever possible: it is preferable to have one sign with three messages that three signs on three separate posts with separate messages. Signs can be combined with other fixtures such as lights to reduce unnecessary posts and cluttering of the landscape or view. However, types of signs should not be mixed; warning or regulatory signs especially should not be mixed with other types.

c. The style for lettering should be standardized throughout the signing system.

d. Coastal access signs should incorporate a standardized symbol that is recognizable by the general public as a symbol that means coastal access.

e. Any segment of the California Coastal Trail should incorporate official California Coastal Commission “foot and wave” logo and/or the words “California Coastal Trail.”

f. The use of international, pictorial symbols can also be an integral part of a standardized signing program for accessways. The use of symbols rather than phrases or sentences has a number of advantages: symbols are more explicit than words; sign size can be reduced; and symbols are more explicit than words; sign size can be reduced; and symbols are universally understood. When located correctly, signs using symbols are universally understood. When located correctly, signs using symbols can stand alone, with little or no additional explanation. When used consistently throughout the accessway signing system, the symbols can be used in conjunction with additional written information to provide a quick index to the types of activity, the regulations for use and the location of accessways which are part of the system. Symbol signs have been standardized and are readily available from most sign companies.

II. **Types of Signs**. There are four basic sign types. The kind of information that a sign is conveying determines its placement, design and use.

a. **Wayfinding**. These signs help orient visitors, shoppers, and residents alike, pointing them to area parking facilities, retail establishments, pedestrian and bicycle access routes, and other important destinations. A wayfinding signs can be

tailored to specific groups depending on contextual factors and desired outcomes; however, these tools are most relevant and important for those unfamiliar with an area. Wayfinding informs people of the best way to access an area, depending on their mode of travel. Marine-oriented signs should assist owners/operators of visiting vessels to locate harbor support facilities.

b. **Public Access**. These signs assist the public in locating, recognizing, and utilizing public trails and bikeways. These signs should be used intersections with roads or trails and at trailheads. Use of too many directional signs should be avoided. However, where it is necessary to use a number of directional signs, they can be effectively clustered. To indicate a change in route or confirmation of a correct direction, an arrow should be included in a directional sign. Where appropriate, these signs should include information advising the public of environmentally sensitive habitats, safety hazards, and to respect adjacent private property. Marine-oriented signs should assist boat owners/operators and the public to locate public launching and docking facilities.

c. **Informational Signs**. Informational signs are used for organizing a series of elements (i.e., location of restrooms, water fountains, telephones, etc.) Informational signs should be placed at a natural gathering spots and included in the design of the accessway.

d. **Regulatory Signs**. A regulatory sign should differ in shape from other signs and give operational requirements, restrictions or warnings (i.e., environmentally sensitive habitats, safety hazards, private property, etc.) Graphic symbols are useful in transmitting messages quickly.

e. **Identification Signs**. Identification signs give specific location information.

City of Newport Beach

Wayfinding & Directional Signage Program

Initial Design and Locations

Note: Subsequent wayfinding signs may have design variations that reflect the character and/or themes of the neighborhood or district in which they are located.

Plain Text and **Plain Bolded Text** = City-proposed IP language
Underlined Text = Inserted Language, CCC Suggested Modification
~~Text in Strike Out~~ = Deleted Language, CCC Suggested Modification

Appendix C – ~~Eelgrass Management Plan~~

Commission Suggested Modification: Strikeout/delete Appendix C – Eelgrass Management Plan and replace with Appendix C – Oceanfront Encroachment Policy Guidelines

Plain Text and **Plain Bolded Text** = City-proposed IP language
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Appendix ~~E~~C – Oceanfront Encroachment Policy Guidelines

The Oceanfront Encroachment Policy established specific restrictions and conditions on the installation of private improvements in the public right of way along the oceanfront from the Santa Ana River Channel to Channel Road.

The policy included a mitigation program involving the reconstruction of 33 unimproved street ends between 36th Street and Summit Street to provide additional parking and improved public access. In 2002, the final five street ends were reconstructed. Pursuant to the mitigation program, a minimum of 85 percent of the encroachment fees will be used for the construction and maintenance of improvements which directly benefit the beach-going public such as parking spaces, restrooms, vertical or lateral walkways along the beach and similar projects.

The Oceanfront Encroachment Policy was originally approved by the Coastal Commission on June 11, 1991 and finalized by the City Council through the adoption of Resolution No. 91-80 on July 11, 1991. These restrictions and conditions were incorporated into the Coastal Land Use Plan, which was approved by the Coastal Commission on October 13, 2005, adopted by the City Council on December 13, 2005, and became effective on February 8, 2006.

These guidelines are intended to implement the Oceanfront Encroachment Policy by establishing a procedure for approval of permitted encroachments, removal of prohibited encroachments, limiting the extent of encroachments, and clarification of improvements permitted within each encroachment zone.

A. Definitions.

1. For the purpose of this Section, the following words and phrases shall be defined as specified below:

   a. Existing encroachment shall mean any encroachment or improvement installed or constructed before May 31, 1992.

   b. New encroachment shall mean any encroachment or improvement installed or constructed after May 31, 1992.

   c. Improvements or Encroachments shall mean any object, thing or landscaping:

      i. within or oceanward of any encroachment zone described in this policy;

      ii. within or oceanward of the north edge of the Oceanfront Boardwalk, between 36th Street and A Street; or

iii. oceanward of any residential parcel from a point 250 feet southeast of E Street to Channel Road.

d. Encroachment permit shall mean the permit issued by the Public Works Director authorizing the maintenance or installation of encroachments or improvements within the encroachment zones described in this policy.

e. Application shall mean any application for an encroachment permit pursuant to the provisions of this policy and the land use plan of the local coastal program.

f. Oceanfront Boardwalk, Oceanfront Walk, or sidewalk, shall mean the concrete walkway along the oceanside of ocean front residential properties between 36th Street and a point approximately 250 feet southeast of E Street.

B. Encroachment Zones.

Subject to compliance with the provisions of this policy:

1. The owner of any ocean front residential parcel between the Santa Ana River and 52nd Street may install improvements on the oceanside of the parcel up to a maximum of 15 feet oceanward of the private property line and within an oceanward prolongation of the property lines on the side of the parcel.

2. The owner of any oceanfront residential parcel between 52nd Street and 36th Street may install improvements on the ocean side of the parcel up to a maximum of 10 feet oceanward of the private property line and within an oceanward prolongation of the property lines on the side of the parcel.

3. The owner of any oceanfront residential parcel between A Street and a point 250 feet southeast of E Street may install improvements up to the inland edge of the Oceanfront Boardwalk and within an oceanward prolongation of the property lines on the side of the parcel.

C. Prohibited Encroachments.

1. Encroachments and improvements are prohibited oceanward of private property between 36th Street and A Street. ~~provided, however, the northerly edge of Oceanfront Boardwalk in this area is not always coincident with the oceanward private property line and improvements northerly of the north edge of the sidewalk are not considered encroachments or prohibited by this policy.~~

2. Encroachments and improvements are prohibited oceanward of any ocean front parcel from a point 250 feet southeast of E Street to Channel Road, ~~provided existing trees which have been planted and maintained in conformance with City Council policy, and ground cover such as ice plant or indigenous plants are not considered to be an encroachment, and will not require a permit pursuant to this policy, but the City reserves the right to remove, trim or otherwise, control the type and extent of any such landscaping.~~ with the exception of landscaping trees existing prior to October 22, 1991, and groundcover.

3. Any existing encroachment or improvement for which no application has been filed on or before May 31, 1992, and any new encroachment or improvement for which no application is filed prior to installation is prohibited.

4. Any new or existing encroachment or improvement which, on or after July 1, 1992, is not in conformance with this policy is prohibited.

5. Any new or existing encroachment or improvement for which there is no valid permit.

D. Permitted Encroachment/Improvements.

Subject to compliance with the provisions of this policy, the following improvements are permitted within the encroachment zones described in Section B:

1. Patio slabs or decks no higher than six inches above existing natural grade. ~~or the finished floor grade of the existing residence.~~ The determination of grade will be made as provided in Section J.

2. Walls and/or fences less than 36 inches in height above existing natural grade. ~~or the finshed floor grade of the existing residence.~~ The determination of grade will be made as provided in Section J.

3. Existing improvements which were constructed in conjunction with development for which a building permit was issued may be approved by the Public Works Director upon a finding that the improvement is consistent with ~~the purpose of this chapter; and the cost of strict compliance is disproportionate to the extent of the nonconformity~~ or is modified to be consistent with the standards of this chapter.

4. ~~Protective devices necessary to control erosion, provided the device is sited to occur as close to private property as feasible~~. Where a shoreline protective device per Section 21.30.030(Natural Landform and Shoreline Protection) cannot be sited within private property, it may be sited as close as feasible to private property. In no event shall a shoreline protective device be constructed to protect a private encroachment authorized on a public right-of-way.

E. Prohibited Improvements.

1. Except for perimeter walls and/or fences less than 36 inches in height, any structural, electrical, plumbing or other improvements which require issuance of a building permit.

2. Pressurized irrigation lines and valves.

3. Any object which exceeds 36 inches in height, exclusive of the following:

    a. trees planted by the City of Newport Beach or private parties pursuant to written policy of the City Council of the City of Newport Beach; or

    b. any landscaping or vegetation within the encroachment zone subject to the following:

        i. The vegetation or landscaping was installed prior to the first effective date of this policy;

        ii. The vegetation or landscaping does not block views from adjoining property;

        iii. The vegetation or landscaping does not function as a hedge as defined in Title 20 of the Newport Beach Municipal Code; and

        iv. The vegetation or landscaping does not impair or affect the health, safety or welfare of persons using the oceanfront Walk, nearby property owners, or residents of the area.

        v. New plant materials that have not been approved by a coastal development permit issued by the Coastal Commission.

Notwithstanding the provisions of this Subparagraph, the City reserves the right to reduce the height of any existing landscaping at any time, upon a determination by the Public Works Director, and after notice to the owner of property on which the vegetation or landscaping exists, that a reduction in height is necessary or appropriate given the purposes of this policy.

F. Permit Process.

1. An encroachment permit shall be required for all permitted improvements. The application shall be filed with the Public Works Department on a form provided by the City. The application shall be signed by the owner of the property, or an agent of the owner if the application is accompanied by a document, signed by the owner, granting the agent the power to act for the owner with respect to the property. The application shall be accompanied by a site plan, drawn to scale and fully dimensioned, which accurately depicts the location, height, nature and extent of all proposed improvements and objects within the encroachment zone. Applications with incomplete information and/or inadequate drawings will not be accepted.

2. Applications for existing encroachments must be filed on or before May 31, 1992. Applications for new encroachments shall be filed before any encroachment or improvement is installed. No new encroachments or improvements shall be installed without an encroachment permit.

3. Upon receipt of the application, the Public Works Director shall, within fifteen (15) days after the date of filing, determine if the application is complete or if additional information is necessary or appropriate to an evaluation of the application. In the event the application is incomplete or additional information is necessary, written notice to that effect shall be sent to the property owner within twenty (20) days after the application is filed.

4. With respect to applications for existing encroachments, an inspection shall be conducted of all improvements within the encroachment zone before a permit is issued by the Public Works Director. With respect to applications for new encroachments, an on site inspection will be conducted after installation of the improvements to insure conformity with provisions of the permit and this ~~policy~~ Section.

5. The Public Works Director shall approve the permit upon a determination that the encroachments proposed to be constructed, or to remain, are permitted by this ~~policy~~Section, the applicant has agreed to abide by all of the terms and conditions imposed on the permit, and the applicant has paid all fees. ~~required by this policy.~~

6. The Public Works Director shall have the authority to condition his/her approval of the encroachment permit as necessary or appropriate to insure compliance with the provisions of this ~~policy~~ Section. The Public Works Director shall have the specific authority to condition approval of an encroachment permit on the removal of nonconforming improvements within a specified period of time.

7. The Public Works Director shall notify the applicant of his/her decision within sixty (60) days after the application is filed and the decision of the Public Works Director shall be final.

G. Term.

1. Except as provided in this Section, annual encroachment permits shall expire on June 30 of each calendar year.

2. Encroachment permits issued prior to June 30, 1992 shall expire June 30, 1993.

H. Renewal.

1. Annual renewal fees shall be due and payable on or before May 31 preceeding the annual term of the permit. For example: Annual renewal fees due on May 31, 2001, are for the period July 1, 2001 through June 30, 2002.

2. The Public Works Director shall approve annual renewal if:

a. The applicant has complied with all standard and special conditions of approval;

b. The applicant has constructed only those improvements and encroachments authorized by the permit;

c. The applicant is in compliance with all of the provisions of this policy.

I. Standard Conditions.

1. The Public Works Director shall impose standard conditions of approval on all encroachment permits. These standard conditions shall include, without limitation, the following:

a. The obligation of permittee to comply with all of the provisions of this policy and all conditions imposed upon the permit.

b. The right of the Public Works Director to revoke any permit after notice and hearing if the permittee is in violation of this policy or conditions to the permit.

c. The right of the City to summarily abate encroachments or improvements which are prohibited by this policy or conditions on the permit upon ten (10) day's written notice.

d. The obligation of permittee to pay all costs incurred by the City in summarily abating any prohibited improvement.

e. The obligation of permittee to defend, indemnify and hold the City and its employees harmless from and against any loss or damage arising from the use or existence of the improvements or encroachment.

f. Permittee's waiver of any right to contest the City's street and public access easement over property within or oceanward of the encroachment zones.

g. The right of the Public Works Director or his designee to inspect improvements within the encroachment zone without notice to the permittee.

h. The right of the City to cancel or modify any, or all, encroachment permit(s) upon a determination by the City Council to construct a public facility or improvement within or adjacent to the encroachment zone.

2. The construction of any seawall, revetment or other device necessary to control erosion, shall occur as close to private property as feasible.

Erosion control devices shall not be placed or installed closer to the ocean to protect improvements or encroachments.

3. The Public Works Director may impose additional standard conditions necessary or appropriate to insure compliance with, or facilitate City administration of this policy.

J. Determination of Grade.

1. The nature of the beach makes a precise determination of grade difficult. The level of the sand changes with wind, storm, and tidal conditions. The Public Works Director shall determine the level from which the height of encroachments and improvements is to be measured. In making this determination, the Public Works Director shall consider the following criteria:

a. The existing natural grade in the area;

~~b. Finished floor elevation or grade of the adjacent residence;~~

~~c. The elevation of existing encroachments on site and on adjacent properties;~~

d. Any data on the historic elevation of the beach in that area.

K. Annual Fee.

1. The fees based on the depths of encroachment shown below shall be established by resolution of the City Council and paid annually as a condition of the issuance of encroachment permits:

Depth of Encroachment

0 - 5 feet

5 - 7 1/2 feet

7 1/2 - 10 feet

10 - 15 feet

2. For purposes of determining fees, the average depth of the encroachment shall be used. However, the maximum depth shall not exceed the limitations specified in Section B. A dimensional tolerance not to exceed 12 inches may be allowed in determining the appropriate fee to be paid by persons with existing encroachments.

3. The annual fee shall be due and payable upon submittal of the application for the initial encroachment permit. Renewal fees shall be due May 31 of each year. The

fee shall be considered delinquent thirty (30) days thereafter. Delinquent fees shall be established by resolution of the City Council.

4. The annual fee shall be used to defray City costs of administration, incidental costs of improvements on street ends along the oceanfront, and incidental costs to enhance public access and use of the ocean beaches. At least eighty-five (85%) percent of the fees shall be used by the City to implement the mitigation plan as required by Amendment No. 23 to the Land Use Plan of the City's Local Coastal Program. (See Section M.)

L. Violations/Remedy.

1. The City shall, in addition to any right or remedy provided by law, have the right to do any or all of the following in the event a permittee is in violation of the provisions of this policy or any condition to the permit, or any encroachment or improvement violates the provisions of this policy:

a. Revoke the permit after giving the permittee notice and an opportunity to be heard upon a determination that there is substantial evidence to support a violation of this policy. The Public Works Director shall establish the specific procedures designed to insure that permittee receives due process of law.

b. Summarily abate any encroachment or improvement violative of this policy after giving the permittee or property owner ten (10) day's written notice of its intention to do so in the event the permittee or property owner fails to remove the encroachment or improvement. The permittee or property owner shall pay all costs incurred by the City in summarily abating the encroachment or improvement. The determination of the Public Works Director with respect to abatement shall be final.

M. Mitigation Plan.

To mitigate any impact on beach access resulting from the encroachments, the City shall:

1. Reconstruct thirty-three unimproved street ends between 36th Street and Summit to provide additional parking and approved access in accordance with the following:

a. The reconstruction shall provide a minimum, where feasible, of two parking spaces per street end and shall proceed in substantial conformance with the standard drawing, attached as exhibit "A."

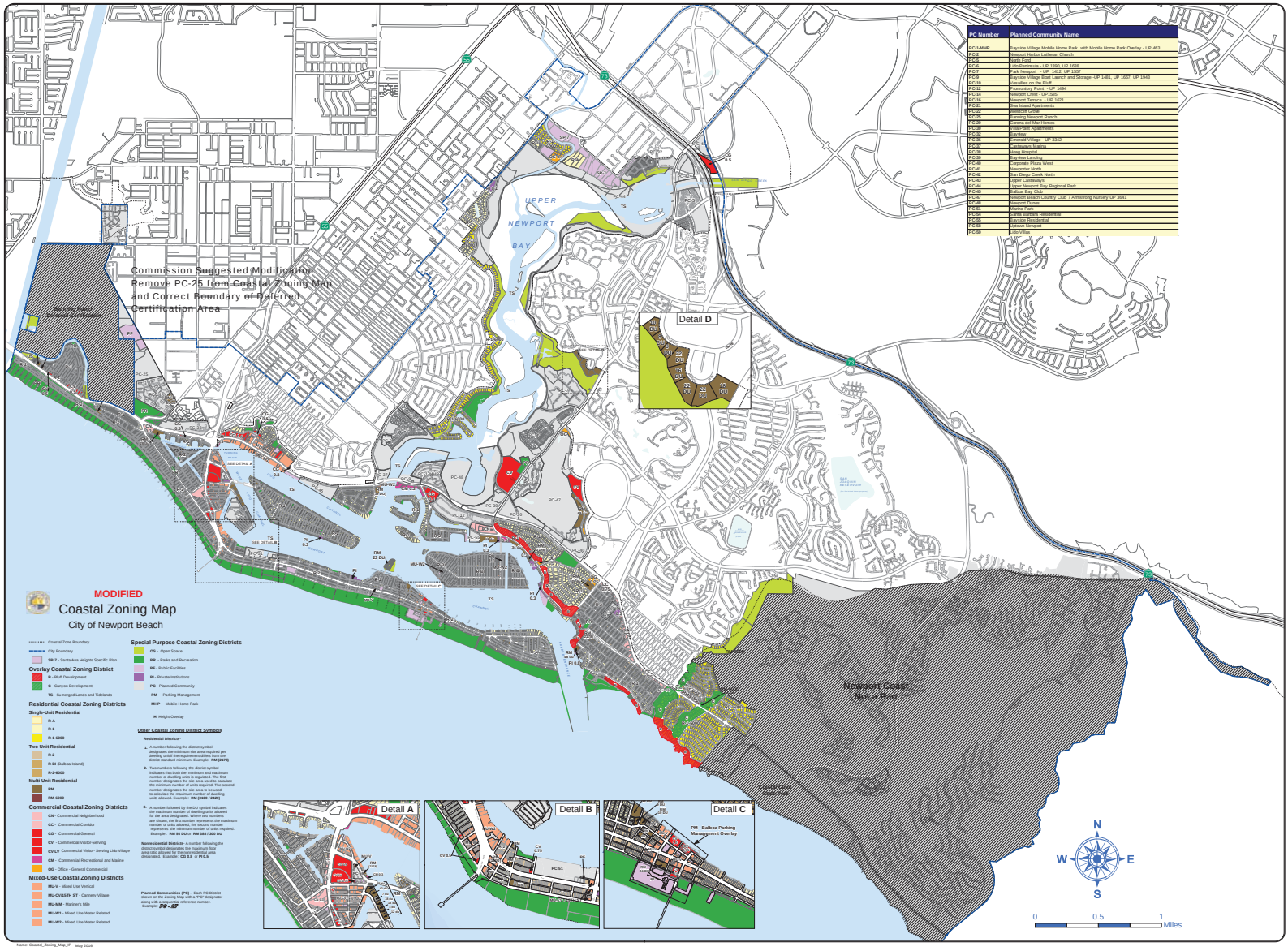
b. The City shall use at least eighty-five percent (85%) of the fees to fund reconstruction of street ends until all have been improved. The City will use its best efforts to improve three or more street ends per year (except during

the year when vertical handicapped access is constructed), and anticipates that funding will be adequate to do so.

c. West Newport street-end parking spaces shall be metered in the same manner as the West Newport Park in order to encourage public use of the spaces.

2. Within three years after Council approval of this Resolution, City shall construct a hard surface walkway perpendicular to Seashore Drive at Orange Avenue. The walkway shall extend oceanward a sufficient distance to allow a view of the surfline by an individual seated in a wheelchair. At least one handicapped parking space shall be designated at the Orange Avenue street end. City shall designate at least one other handicapped space at one of the first three street ends improved.

3. Subsequent to the reconstruction of all West Newport street ends, at least eighty-five percent (85%) of the fees generated by encroachments will be used for the construction of improvements which directly benefit the beach going public such as parking spaces, rest rooms, vertical or lateral walkways along the beach and similar projects.



PC Number	Planned Community Name
PC-1-MHP	Bayside Village Mobile Home Park with Mobile Home Park Overlay - UP 462
PC-2	Newport Harbor Lutheran Church
PC-5	North Ford
PC-6	Villa Peninsula - UP 1595, UP 1608
PC-7	Park Newport - UP 1412, UP 1557
PC-9	Bayside Village Boat Launch and Storage -UP 1481, UP 1667, UP 1943
PC-10	Versailles on the Bluff
PC-13	Promontory Point - UP 1494
PC-14	Newport Crest - UP1585
PC-16	Newport Terrace - UP 1821
PC-23	Sea Island Apartments
PC-32	Westcliff Gerae
PC-35	Banning Newport Ranch
PC-36	Corona del Mar Homes
PC-37	Villa Point Apartments
PC-38	Bayview
PC-39	Emerald Village - UP 2362
PC-37	Castaways Marina
PC-38	Hoag Hospital
PC-39	Bayview Landing
PC-40	Corporate Plaza West
PC-41	Newporter North
PC-42	Lido Diego Creek North
PC-43	Upper Castaways
PC-44	Upper Newport Bay Regional Park
PC-45	Balboa Bay Club
PC-47	Newport Beach Country Club / Armstrong Nursery UP 3641
PC-48	Newport Dunes
PC-51	Marina Park
PC-56	Santa Barbara Residential
PC-57	Bayside Residential
PC-58	Uptown Newport
PC-59	Lido Villas