

**CITY OF NEWPORT BEACH  
PLANNING DEPARTMENT ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: David Lepo, Planning Director

SUBJECT: Report of actions taken by the Zoning Administrator, Planning Director and/or Planning Department staff for the week ending April 30, 2010

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**ACTIONS TAKEN AT APRIL 29, 2010 ZONING ADMINISTRATOR HEARING**

Item 1: Lot Merger No. LM2010-003 (PA2010-039)  
24 Harbor Island

This item was approved.

Council District 5

**ACTIONS TAKEN BY THE PLANNING DIRECTOR OR PLANNING DEPARTMENT STAFF**

Item 2: Massage Heights – Use Permit No. UP2010-009 (PA2010-049)  
1334 Bison Avenue

Approved – April 29, 2010

Council District 4

On behalf of David Lepo, Planning Director:



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Patrick J. Alford, Planning Manager

APPEAL PERIOD: Modification Permit applications do not become effective until 14 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code.

*Email* City Council  
Planning Commission  
David Lepo, Planning Director  
Sharon Wood, Assistant City Manager  
David Keely, Public Works Senior Civil Engineer  
Code Enforcement Division  
Kim Dominguez,  
Sgt. John Freeman, NBPD



## ZONING ADMINISTRATOR ACTION LETTER

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application:** Lot Merger No. LM2010-003 (PA2010-039)

**Applicant:** Monte Carlo Trust

**Site** 24 Harbor Island

**Address:**

**Legal** PARCEL 1:

**Description:** LOT 24 AND 25, OF TRACT 802, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 24, PAGE 7 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

SAID LAND IS SHOWN ON A MAP FILED IN BOOK 92, PAGE 14 OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

PARCEL 2:

THOSE PORTIONS OF LOT 1, SECTION 34 AND LOT 1, SECTION 35, BOTH IN TOWNSHIP 6 SOUTH RANGE 10, WEST OF THE SAN BERNARDINO MERIDIAN, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, ACCORDING TO THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF LOT 24 OF TRACT NO. 802, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 24, PAGE 7 OF MISCELLANEOUS MAPS, RECORDS OF SAID COUNTY, THENCE SOUTHEASTERLY ALONG THE SOUTHWESTERLY LINES OF LOTS 24 AND 25 OF SAID TRACT NO. 802, TO THE MOST SOUTHERLY CORNER OF SAID LOT 25, THENCE SOUTHWESTERLY ALONG THE SOUTHWESTERLY PROLONGATION OF THE SOUTHEASTERLY LINE OF SAID LOT 25 TO THE LINE OF HIGH TIDE OF THE PACIFIC OCEAN IN NEWPORT BAY, AS DESCRIBED IN AND ESTABLISHED BY THE JUDGMENT RENDERED IN ACTION NO 23690 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE COUNTY OF ORANGE, A CERTIFIED COPY OF WHICH WAS RECORDED JULY 12, 1928 IN BOOK 181 PAGE 162 OF OFFICIAL RECORDS, THENCE NORTHWESTERLY ALONG SAID HIGH TIDE LINE TO THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF SAID LOT 24; THENCE NORTHEASTERLY ALONG SAID LAST MENTIONED LINE TO THE POINT OF BEGINNING.

SAID LAND IS SHOWN ON A MAP FILED IN BOOK 92, PAGE 14, OF RECORD OF SURVEYS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

On April 29, 2010, the Zoning Administrator approved a lot merger and waiver of a parcel map for the following property, under common ownership, located on Harbor Island : Lots 24 and 25 (Parcel 1), and a piece of land lying between the adjudicated high tide line and the southerly property line of both lots (Parcel 2). The property is located in the R-1 (Single-Family Residential) District. The Zoning Administrator's approval is based on the following findings, which must be made prior to approval of a lot merger.

## **FINDINGS**

1. **Finding:** The proposed project is in conformance with the California Environmental Quality Act.

### **Facts in Support of the Finding:**

- The project qualifies for an exemption from environmental review pursuant to Section 15305 (Class 5 Minor Alterations in Land Use Limitations) of the Implementing Guidelines of the California Environmental Quality Act (CEQA), which consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including minor lot line adjustments not resulting in the creation of any new parcel.
2. **Finding:** Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.

### **Facts in Support of the Finding:**

- Harbor Island was originally subdivided and developed as Tract 802 in 1926. The subject property consists of Lots 24 and 25 (Parcel 1), and a piece of land between the original southerly lot line of Tract 802 and the adjudicated mean high tide line (Parcel 2) established per Record of Survey 146 33, recorded with the County of Orange on September 6, 1994.
- The subject property was developed as a single site with a single-unit dwelling constructed across the side property line of Lots 24 and 25. The single-unit dwelling, a greenhouse, and a separate shed were recently demolished. Construction of a new single-unit dwelling on the site is proposed.
- Per Title 19.04.035 (Development Across Property Lines), structures can no longer be constructed across property lines. Approval of a lot merger would be required to redevelop the property as a single site.

- The subject property was originally developed, and has continued to exist as a single site with a single-unit dwelling located across the side property line of Lots 24 and 25. It is similar to the development of other properties on Harbor Island; and has not been detrimental to the health, safety, peace, comfort or general welfare of persons residing or working in the neighborhood or injurious to property and improvements in the neighborhood or the general welfare of the City.
3. **Finding:** The lots to be merged are under common fee ownership at the time of the merger.

**Facts in Support of the Finding:**

- Lots 24 and 25 (Parcel 1), and the parcel of land located between the original lot line of Tract 802 and the adjudicated mean high tide line (Parcel 2) are under common ownership.
4. **Finding:** The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

**Facts in Support of the Finding:**

- All lots on Harbor Island are zoned Single-Family Residential (R-1). The previously existing single-unit dwelling located on the subject site has been demolished, and the proposed lot would be redeveloped with a new single-unit dwelling. Because the existing individual lots comply with the development standards for minimum lot width and lot area required by Section 20.10.030 of the Zoning Code, the proposed merger would create one lot that would continue to meet the required standards.
  - The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which is intended to provide primarily for single-family residential units on a single legal lot and does not include condominiums or cooperative housing. The Coastal Land Use Plan designates this site as Single Unit Residential Detached (RSD-A) which provides for density ranges from 0.0-5.9 DU/AC. The previously existing development and proposed development of a single-unit dwelling on the site is consistent with these designations.
5. **Finding:** Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.

**Facts in Support of the Finding:**

- Harbor Island Road is a private road which was developed to provide vehicular access for the properties located on Harbor Island. Vehicular access from the

subject site and adjacent properties would remain via Harbor Island Road.

6. **Finding:** The lots as merged will be consistent with the surrounding pattern of development and will not create an excessively large lot that is not compatible with the surrounding development.

**Facts in Support of the Finding:**

- Harbor Island consists of lots of varying size. Many lots of the original tract were developed as single sites with primary and/or accessory structures constructed across adjacent property lines. On many sites, the original structures remain in place. More recently, many properties have completed lot mergers in order to allow new development on properties previously developed as single sites consisting of more than one lot. The proposed lot merger would remove the lot lines on the subject property to permit the redevelopment of the lots as a single site; and would not result in a development pattern, which is inconsistent with the existing development on Harbor Island.

In accordance with Section 19.08.030 of the Municipal Code (Waiver of Concurrent Parcel Map), the Zoning administrator approved a waiver of the parcel map requirement since no more than three parcels are eliminated.

7. **Finding:** That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

**Facts in Support of the Finding:**

- The subject property has existed as a single site since originally developed. The existing lots currently comply with the design standards and improvements required by the Zoning Code, General Plan, and Coastal Land Use Plan.
- Approval of the proposed lot merger would remove the existing lot lines, and allow the property to remain as a single site for redevelopment. The land use, density, and intensity would remain the same. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, General Plan, and Coastal Land Use Plan.

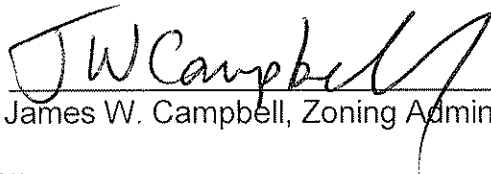
**CONDITIONS**

1. All applicable Public Works Department plan check fees shall be paid prior to review of the lot merger and grant deeds.
2. Prior to recordation of the lot merger, grant deeds indicating the changes in titles

of ownership should be submitted to the Public Works Department for review and approval.

3. The lot merger and grant deeds reviewed and approved by the Public Works Department should be filed concurrently with the County Recorder and County Assessor's Offices.
4. In conformance with the California Coastal Act, Coastal Commission approval shall be obtained prior to the recordation of the lot merger.
5. No building permits may be issued until the appeal period has expired, unless otherwise approved by the Planning Department.
6. Prior to final of the building permit for any new construction on the property, the Planning Department shall verify Coastal Commission approval of the lot merger and recordation of the document with the County Recorder.
7. This approval shall expire unless exercised within 24 months from the date of approval as specified in Section 20.93.050 of the Newport Beach Municipal Code.

**APPEAL PERIOD:** Modification Permit applications do not become effective until 10 days after the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. Tentative Parcel Map, Condominium Conversion, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of action, during which time an appeal may be filed with the Planning Commission Secretary in accordance with the provisions of the Newport Beach Municipal Code. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

By:   
James W. Campbell, Zoning Administrator

JWC/ks

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None



## VICINITY MAP



Lot Merger No. LM2010-003  
PA2010-039

**24 Harbor Island**



## **USE PERMIT ACTION LETTER**

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.**                      **Use Permit No. UP2010-009 (PA2010-049)**  
**Applicant**                              **South Coast Retreats, LLC**  
**Site Address**                        **1334 Bison Avenue**  
   **Massage Heights**  
**Legal Description**                **PM-326-48**

On **April 29, 2010**, the Planning Director approved the following: A use permit to allow an independent massage establishment pursuant to Chapters 20.42, 20.87, and 20.91 of the Municipal Code. The facility will also offer skin care treatments and the sale of related retail products. The application includes a waiver of location restrictions since the facility is located within 500 feet of another independent massage establishment. The property is located in the PC-50 (Bonita Canyon) District. The approval is based on the following findings and subject to the following conditions.

### **FINDINGS**

1. The Land Use Element of the General Plan designates the site as CG (General Commercial) and the Bonita Canyon Planned Community Plan designates the site for commercial development. The massage establishment is a commercial use consistent with the General Plan and Planned Community designations.
2. The project is exempt from environmental review pursuant to Section 15301 of the California Environmental Quality Act under Class 1 (Minor Alteration of Existing Structures) of the Implementing Guidelines of the California Environmental Quality Act. This exemption allows for the operation, repair, maintenance and minor alteration of existing buildings. The proposed project is for a change in use and requires minor alteration to the existing building.
3. The proposed location of the use is in accord with the objectives of the Zoning Code and the purposes of the district in which the site is located.

Facts in support of finding:

- Massage establishments are a permitted use in this district upon approval of a use permit. Use permits enable the City to control certain uses which could



have detrimental effects if not compatible with uses on adjoining properties and in the surrounding area. A massage establishment is complementary to some of the other uses in the commercial district, which includes eating and drinking establishments, retail stores, and personal improvement facilities, because it adds another beneficial service for residents and visitors. The proposed addition of massage services does not present any conflicts with the purpose and intent of this district.

4. That the proposed location of the massage establishment and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the neighborhood of such use; and will not be detrimental to the properties or improvements in the vicinity or to the general welfare of the city.

Facts in support of finding:

- The proposed massage establishment is consistent with the General Commercial land use designation, which allows for a variety of commercial activities oriented primarily to serve citywide and regional needs. The massage service is minor in nature and would integrate well with the other commercial uses in the neighborhood as it will offer additional services to the area without being a detriment to the community.
  - The hours of operation are consistent with those of other businesses in the immediate area and are limited to the hours between 8:00 a.m. and 10:00 p.m. by the requirements provided in Chapter 5.50 of the Municipal Code.
  - The required number of off-street parking spaces, as required by the Zoning Code Regulations, is provided in the common lot for the proposed establishment.
  - The proposed use is not within 500 feet of any public or private school, park or playground, civic center, or cultural site or church site.
  - Compliance with all other applicable regulations of the Municipal Code will be required and enforced, including Chapter 5.50 (Massage Establishments), which regulate massage services with a massage permit from the Police Department in order to protect the health, safety and welfare of citizens of the City.
5. That the proposed use will comply with the provisions of this code, including any specific condition required for the proposed use in the district in which it would be located.

Facts in support of finding:

- The proposed massage establishment is consistent with the legislative intent of Chapter 20.87 of the Municipal Code. The purpose and intent of the chapter is to disperse the location of massage establishments throughout the City and to prevent problems of blight. The proposed use will not create a concentration of massage uses in the neighborhood that would be detrimental to the neighborhood or create neighborhood blight.
6. Pursuant to Section 20.87.025, the applicant has applied for a waiver of the location restriction since the proposed use is located within 500 feet of another massage establishment site. The Planning Director waived the location restriction based on the following findings:

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

- The proposed use is within 500 feet of another permitted, but not currently utilized, massage establishment (1312 Bison), however, the other facility is a massage use in conjunction with a hair salon. The massage service is a minor part of the overall services provided at that facility because only one massage table is used in the facility and only one massage technician works at any given time. Therefore, the proposed massage use will not result in an over-concentration of massage uses in the neighborhood that would be detrimental to the neighborhood or create neighborhood blight.
- Compliance with all other applicable regulations of the Municipal Code will be required.

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

- The proposed use is located in a commercial building with coordinated tenant management, which will discourage blight to the area because the owner of the building and the other tenants have a vested interest in the quality and integrity of the property site.

*The establishment of an additional regulated use in the area will not be contrary to any program of neighborhood conservation nor will it interfere with any program of urban renewal.*

- There are no urban renewal or neighborhood conservation programs in effect in the area.

## **CONDITIONS**

1. The development shall be in substantial conformance with the approved floor plan.
2. The project shall comply with State Disabled Access requirements.
3. Any changes to the existing parking lot configuration shall be subject to further review by the City Traffic Engineer for the on-site parking, vehicular circulation and pedestrian circulation systems.
4. The daily hours of operation shall be limited to between 8:00 a.m. and 10:00 p.m. The daily hours shall be subject to the operational requirements provided in Chapter 5.50 of the Municipal Code. Massage services shall be provided only during normal business hours of the facility.
5. All applicable requirements of Chapter 5.50 of the Municipal Code shall be fulfilled.
6. At least one parking space for every 250 square feet of gross floor area shall be provided on-site for the proposed facility.
7. No temporary "sandwich" signs, balloons or similar temporary signs shall be permitted, either on-site or off-site, to advertise the proposed establishment, unless specifically permitted in accordance with the Sign Ordinance of the Municipal Code. Temporary signs shall be prohibited in the public right-of-way, unless otherwise approved by the Public Works Department in conjunction with the issuance of an encroachment permit or encroachment agreement.
8. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code.
9. The facility shall be designed to meet exiting and fire protection requirements as specified by the Uniform Building Code and shall be subject to review and approval by the Building Department.
10. The Planning Director may add to or modify the conditions of approval for this Use Permit. The Planning Director may revoke this permit upon a determination that the operation (which is the subject of this approval) causes injury or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
11. This approval shall expire unless exercised within 24 months from the end of the appeal period, in accordance with Section 20.91.050 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The applicant or any interested party may appeal the decision of the Planning Director, Zoning Administrator and department staff to the Planning Commission by a written request to the Planning Director within 14 days of the action date. A \$3,070.00 filing fee shall accompany any appeal filed. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

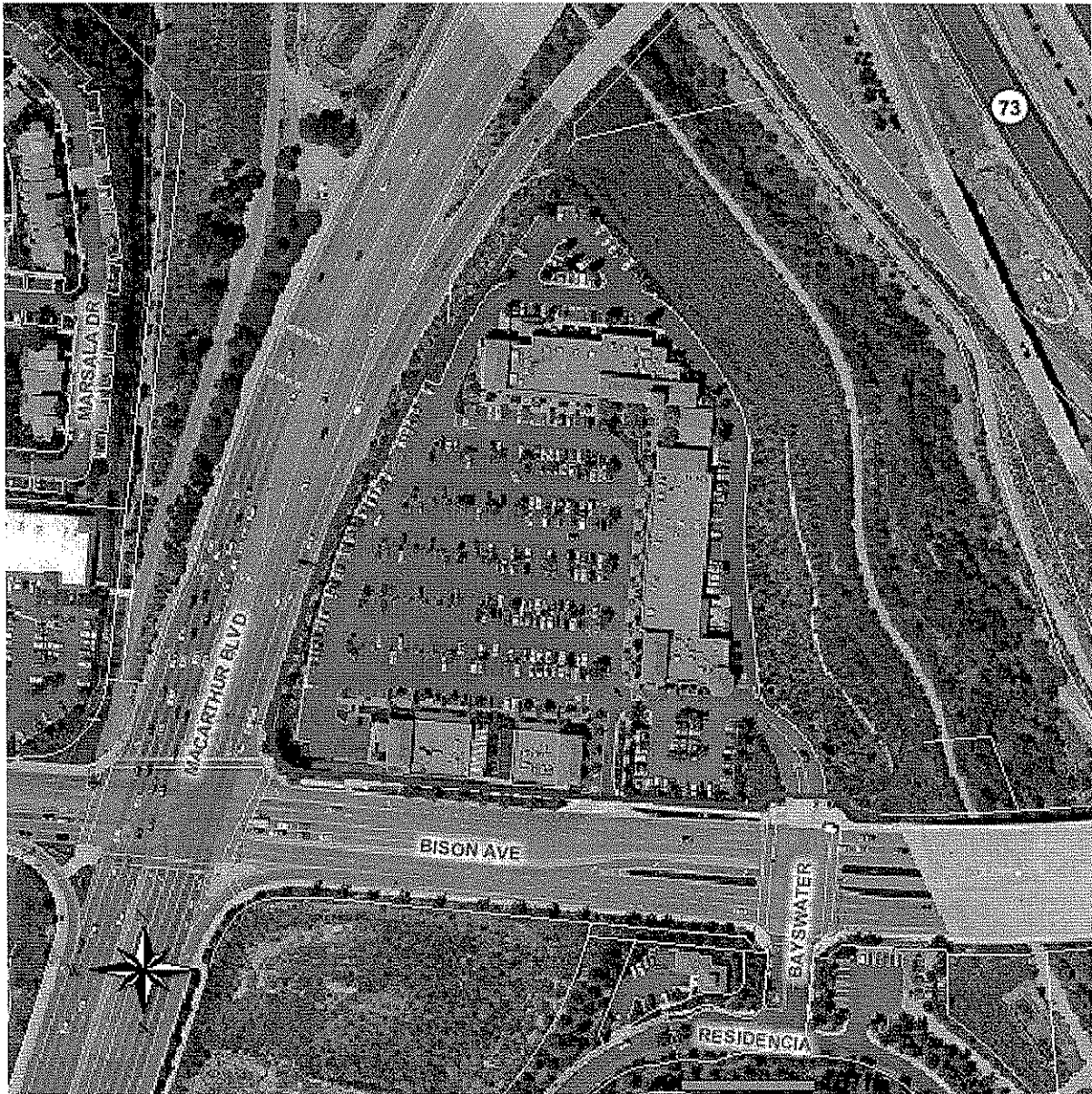
On behalf of David Lepo, Planning Director

By:   
James Campbell, Principal Planner

JC/ems

Attachments: Vicinity Map  
Applicant's Project Description  
Project Plans

## VICINITY MAP



Use Permit No. UP2010-009  
PA2010-049

**1334 Bison Avenue**

# Steiner | DOUGLAS

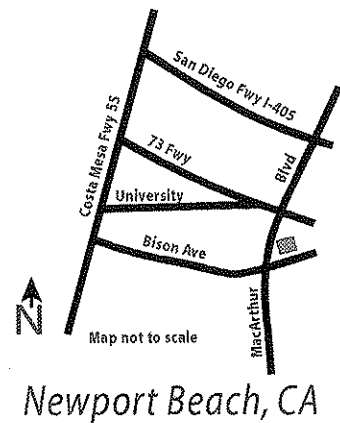
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## Massage Heights 1334 Bison Avenue – The Bluffs Justification and Findings

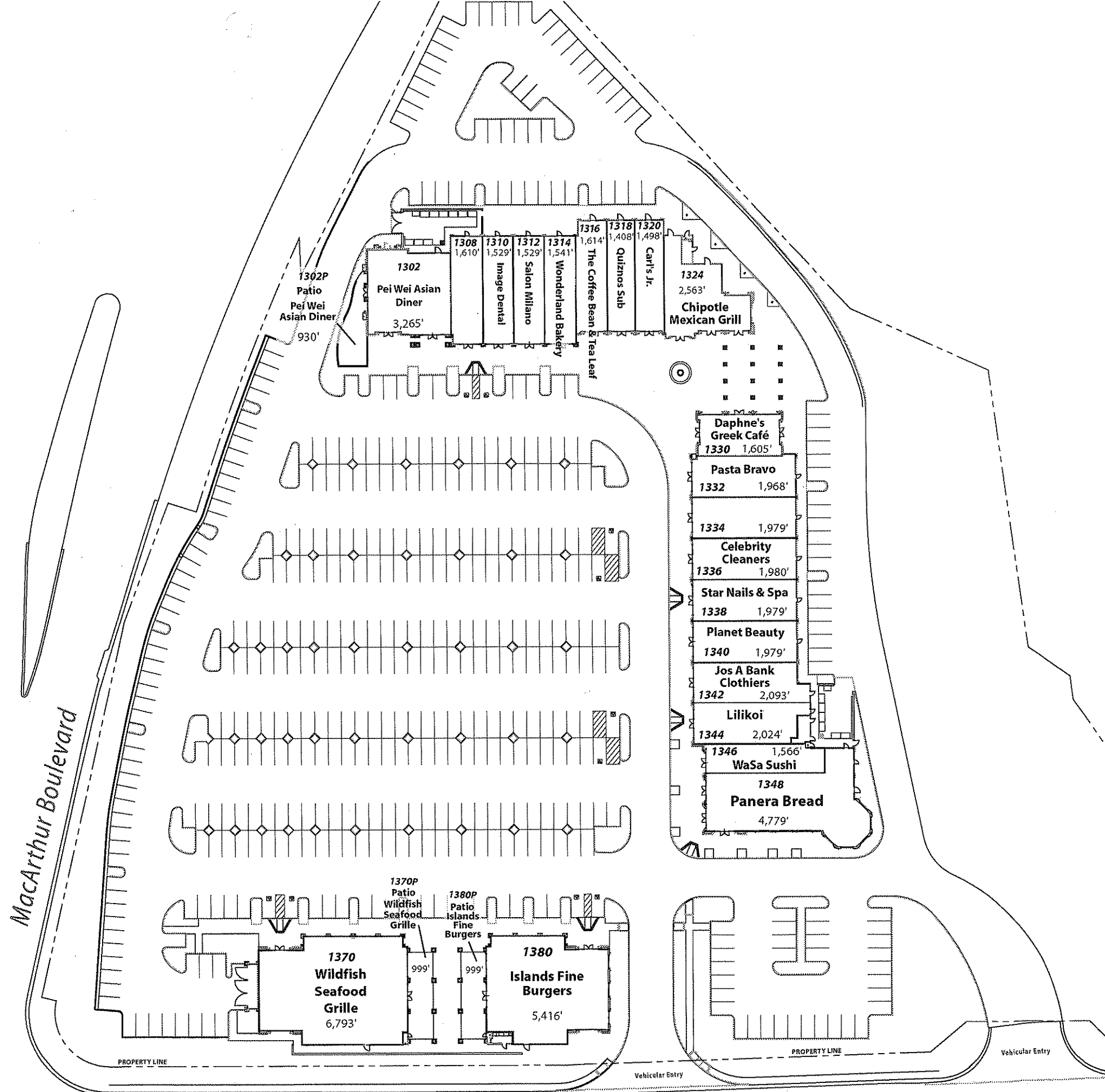
The proposed project, Massage Heights, is for the operation of an upscale, first class retreat offering therapeutic massage and non-invasive facial treatments and related retail products. The project is proposed at 1334 Bison Avenue, The Bluffs and is consistent with:

- The objectives of the City of Newport Beach Zoning Code and with the existing uses and purpose of the site.
- The General Plan and the purpose of the district in which the site is located; will not be detrimental to the public health, safety, peace, morals, comfort, or welfare of persons residing or working in or adjacent to the project site; and will not be detrimental to the properties or improvements in the vicinity, or to the general welfare of the City.
- The provisions of the Zoning Code for the PC-50, Bonita Canyon, zoning district.

# The Bluffs



This is a schematic plan intended only to show the general layout of the Shopping Center and the approximate location of the Premises. Landlord, at any time, may change the shape, size, location, number and extent of the improvements shown hereon, as well as any additional improvements. Landlord may eliminate, add or relocate any improvements to any portion of the Shopping Center, including, without limitation, buildings, parking areas or structures, roadways, curb cuts, temporary or permanent kiosks, displays or stands, and may add land to and/or withdraw land from the Shopping Center. Plan not to scale. All properties offered for lease by Irvine Realty Company, a licensed real estate broker. Lic. 01521891



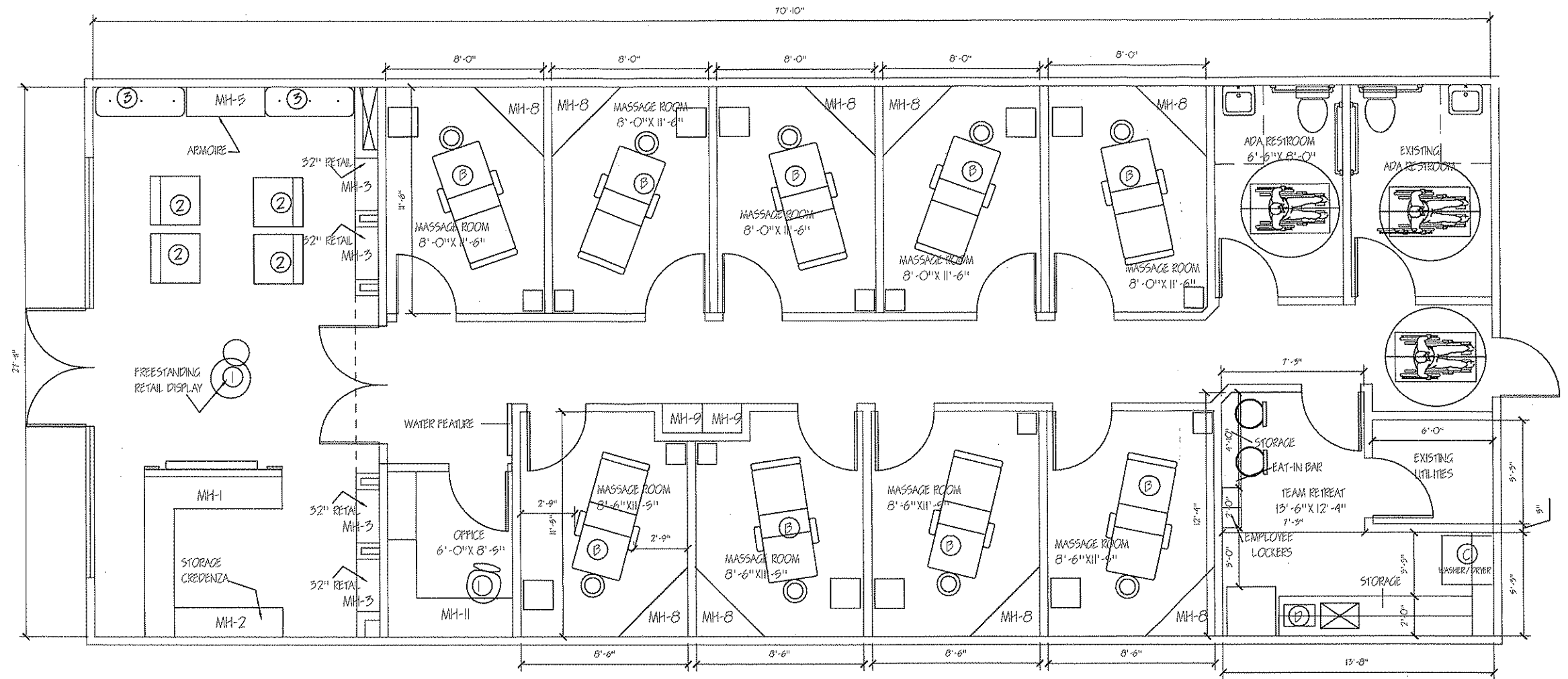
Bison Avenue

**IRVINE COMPANY** | **RETAIL PROPERTIES**  
Since 1864

PA2010-049 for UP2010-009  
1334 Bison Avenue  
South Coast Retreats, LLC

FILE COPY





NOTE: ALL FURNITURE TO BE SUPPLIED & ASSEMBLED BY OWNER UNLESS OTHERWISE SPECIFIED

FURNITURE SCHEDULE		
SYMBOL	QTY	DESCRIPTION
①	1	OFFICE CHAIR
②	4	LOUNGE CHAIR
③	2	BENCH SEATING
④	1	FILE STORAGE SHELVING (OFFICE)
⑤	1	OPTIONAL SOFA FOR TEAM RETREAT

NOTE: ALL EQUIPMENT & APPLIANCES TO BE ASSEMBLED, INSTALLED & SET IN PLACE BY OWNER UNLESS OTHERWISE SPECIFIED

EQUIPMENT SCHEDULE		
SYMBOL	QTY	DESCRIPTION
ⓑ	9	MASSAGE TABLE
ⓒ	1	WASHER/ DRYER
ⓓ	1	MICROWAVE

ARTWORK SCHEDULE		
SYMBOL	QTY	DESCRIPTION
AR-1	-	24"X18" OR TWO 16"X20"
AR-2	3	24"X18"

- ALL CUSTOM MILLWORK BELOW TO BE SUPPLIED BY OWNER AND INSTALLED BY MILLWORK COMPANY
- COUNTERTOPS AND SINK(S) FOR EMPLOYEE LOUNGE TO BE SUPPLIED AND INSTALLED BY THE CONTRACTOR AND INCLUDED IN CONTRACTOR PRICE
- SHELVING TO BE FURNISHED AND INSTALLED BY CONTRACTOR

CUSTOM MILLWORK SCHEDULE		
SYMBOL	QTY	DESCRIPTION
MH-1	1	RECEPTION DESK
MH-2	1	CREDENZA
MH-3	4	RETAIL DISPLAY
MH-5	1	ARMOIRE
MH-8	9	TREATMENT ROOM CABINETS
MH-9	2	LINEN STORAGE/ HAMPER
MH-10	1	SET OF DISPLAY TABLES
MH-11	1	DESK (OFFICE)

CUSTOM MILLWORK PROVIDED BY:  
MASTERPIECE BUILDERS  
JAY RYAN  
PH: 515-965-3182  
732 SE SHURFINE  
ANKENY, IA 50021

## PRELIMINARY FLOOR PLAN OPTION B

**MICHELE PELAFAS, INC.**  
Salon and Spa Interior Design  
800 Enterprise Dr., Suite 212 (Oak Brook, IL 60523)  
P. 630 990 7750 F. 630 990 7760

PROJECT: MASSAGE HEIGHTS  
NEWPORT BEACH, CA

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

DATE: JAN 18, 2010

SHEET  
**A-2**