



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, Hearing Officer, and/or Planning Division staff for the week ending May 11, 2012

**ZONING ADMINISTRATOR ACTIONS
MAY 9, 2012**

Item 1: Newport Place Shopping Center Sign Program – Modification Permit No. MD2012-007 and Comprehensive Sign No. CS2012-004 (PA2012-024)
4221 - 4225 MacArthur Boulevard

Action: Approved by Resolution No. ZA2012-018 Council District 3

**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**

Item 2: Determination of Natural Grade No. SA2012-009 (PA2012-038)
2782 Bay Shore Drive

Action: Approved Council District 3

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

RESOLUTION NO. ZA2012-018

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2012-004 AND MODIFICATION PERMIT NO. MD2012-007 FOR THE NEWPORT PLACE RETAIL CENTER LOCATED AT 4221-4225 MACARTHUR BOULEVARD (PA2012-024)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ridgeway/Whitney, with respect to property located at 4221-4225 MacArthur Boulevard, and legally described as Parcel 1 of Resubdivision 0347 per a Map Recorded in Book 45, Page 23 of Miscellaneous Maps, Records of Orange County, California requesting approval of a Comprehensive Sign Program and Modification Permit.
2. The subject property is located within the PC-11 Zoning District (Newport Place Planned Community, General Commercial Site 8) and the General Plan Land Use Element category is MU-H2 (Mixed-Use Horizontal).
3. The applicant requests a Comprehensive Sign Program for a future commercial retail center located on a roughly 1.107 acre lot. The center will be developed with two commercial buildings with six or more tenants.
4. The Comprehensive Sign Program is required to allow an increase in the size, area and location of the proposed wall signs otherwise restricted by the Newport Place Planned Community District Regulations. As proposed, wall signs will be increased in size based in part to the width of the tenant frontage, some tenants will be provided more than one wall sign, and each tenant will be allowed one additional pedestrian oriented sign and/or window sign.
5. The applicant also requests a Modification Permit to allow for a second freestanding monument sign to identify on-site retail tenants, where the Newport Place Planned Community District Regulations restrict the property to a single freestanding sign to identify restaurants only. Additionally, one freestanding sign will exceed the maximum height of four (4) feet specified by the Newport Place Planned Community District Regulations for monument signs, and more than the 20% increase that can be authorized by a comprehensive sign program.
6. The public hearing was scheduled on April 25, 2012, however, the subject application could not be heard at that time due to a discrepancy with the Public Notice. Therefore, the matter was renoticed and scheduled to the hearing on May 9, 2012. A public hearing was held on May 9, 2012, in the City Hall Council Chambers, 3300 Newport Boulevard, Newport Beach, California. A notice of time, place and purpose of the meeting was

given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt under the requirements of the California Environmental Quality Act, pursuant to Section 15311 (Class 11 – Accessory Structures).
2. Class 11 exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to on-premise signs.

SECTION 3. REQUIRED FINDINGS.

Modification Permit to allow a second freestanding sign to exceed the permitted height as limited by the provisions of the Newport Place Planned Community District Regulations and the Zoning Code authority in conjunction with a comprehensive sign program.

In accordance with Section 20.52.050.E (Findings and decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Modification Permit are set forth:

Finding

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

Facts in Support of Finding

1. The subject property is located in the PC-11 (Newport Place Planel Community, General Commercial Site 8) District and is designated MU-H2 (Mixed-Use Horizontal) by the Land Use Element of the General Plan. This district is intended to provide for areas appropriate for accommodations, goods, and services intended to serve the neighborhood. The proposed commercial development and proposed signage is consistent with this land use designation. The application of the Zoning Code provisions for signs in place of the Newport Place Planned Community District Regulations is appropriate since the commercial shopping center is comparable to other such commercial centers located citywide. The proposed signage is accessory to the primary use.
2. The freestanding signs, as proposed, are in scale with the building frontages in that the maximum permissible size for each sign, as denoted in the sign program matrix (Exhibit B), does not exceed 75 square feet.

3. The freestanding sign for 4221 MacArthur Boulevard (Building B) is 6 feet high (average, 50% taller than allowed by the Newport Place Planned Community District Regulations) and 8 feet in length; and the sign for 4225 MacArthur Boulevard (Building A) is 4 feet high (average) by 4 feet in length, complies with the code requirements. The freestanding signs shall be located no less than 60 feet apart.
4. The increased height of the freestanding sign will be consistent and compatible with other commercial properties within the Newport Place Community and citywide.
5. The neighborhood includes restaurant properties with freestanding signs, and office buildings with additional monument signs that provide visibility from the public rights-of-way. The freestanding sign as proposed will provide enhanced visibility from MacArthur Boulevard for tenants that range in distance from the street right-of-way of between 35 and 100 feet.

Finding

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

Facts in Support of Finding

1. The perpendicular orientation of the main building (Building B) to MacArthur Boulevard, a major high speed arterial, limits the visibility of the tenant wall signs. Additionally, visibility of the main building will be further obstructed by the second commercial building to be constructed at the north end of the subject site; and also visibly obstructed by the office building located to the south.
2. The restaurant site to be identified on the monument sign is not visible from MacArthur Boulevard because of its location and distance from the street (approximately 200 feet).
3. The proposed increased height of the freestanding sign is necessary due to the overall size of the commercial project, placement of the buildings on the site, and the speed of the traffic on MacArthur Boulevard. Additionally, several tenants are located interior to the property with limited visibility from the roadway.

Finding

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

Facts in Support of Finding

1. The property will be developed with two buildings with a total building frontage of approximately 131 lineal feet.
2. The modification permit will allow a freestanding sign that is in scale with the building and that provides enhanced visibility from the MacArthur Boulevard frontage to the greatest extent possible.

Finding

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

Facts in Support of Finding

1. The granting of a modification permit allows the increased height of the freestanding sign to facilitate identification of the multiple tenants within Building B and the restaurant to the west to have visibility from MacArthur Boulevard. The existing restaurant to the west of the subject property (Restaurant Site 1 of Newport Place Planned Community) is 200 feet from the sidewalk on MacArthur Boulevard. No similar provision could be granted within the parameters of Section 20.42.120 (Comprehensive Sign Program) of the Zoning Code.
2. No foreseeable detriment will result from the approval of the modification permit as conditioned to limit number of tenants identified, and the required distance between the freestanding signs.

Finding

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

Facts in Support of Finding

1. The proposed freestanding signs are consistent with the identification signs of both the office buildings and the multi-tenant signage of the commercial projects within Newport Place Community and elsewhere in the City and for those reasons will not be detrimental to public health, safety, or welfare to the occupants of the property, nearby properties, the neighborhood, or the City.
2. The signage is for commercial uses in a commercial district and is not in or adjacent to a residential district.

Comprehensive Sign Program

Pursuant to Section 20.42.120 of the Zoning Code, approval of a Comprehensive Sign Program is required whenever a structure has more than three hundred (300) linear feet of frontage on a public street. In accordance with Section 20.67.120.E, a Comprehensive Sign Program shall comply with a number of standards. The following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42: Signs], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

Facts in Support of Standard:

1. In compliance with the purpose and intent of the Sign Code, the proposed Sign Program provides the uses with adequate identification without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, and general design of signage.

Standard:

- B. *The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

1. The site is for use by multiple retail commercial tenants and the signage has been designed integral with the design and character of the building.
2. Each tenant will be permitted signage that will ensure adequate visibility is provided on site and from MacArthur Boulevard to the greatest extent possible.
3. Each tenant will be permitted signage pursuant to the submitted Newport Place Sign Program matrix to allow tenants in the multi-tenant building to have one or two wall signs, one pedestrian oriented or window sign, and limited identification on the freestanding signs, as part of the application. The freestanding building (Building A), if occupied by a single-tenant, will be allowed to have one wall sign on each of three building facades as depicted on the site plan. If the frontage of any tenant space is changed or Building A is divided into multiple tenancy, deviation from this approval shall be reviewed and approved by the Planning Division to determine substantial conformance with this approval. The size and location of the letters and logos of the

signs will ensure that adequate visibility is provided, and not be abrupt in scale with the individual tenant frontage.

Standard:

- C. *The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Facts in Support of Standard:

1. The Sign Program submitted for the project addresses all project signage. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42.

Standard:

- D. *The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

1. The project site is for the use of multiple commercial tenants and has been designed to be effective for such uses.
2. It is not anticipated that future revisions to the program will be necessary to accommodate normal changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed signs.
3. Consistent with Chapter 20.42, the Director [or his/her designee] may approve minor revisions to the Sign Program if the intent of the original approval is not affected.

Standard:

- E. *The program shall comply with the standards of this Chapter, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

1. The Sign Program requests deviation in the number of signs, size and location of wall signs and an increase in the size and number of freestanding signs which will aid and enhance the identification and visibility of the commercial tenants from the public roadway.

2. The sign provisions of the Newport Place Planned Community District Regulations limit tenant signs to 4-inch letters in a single location over a doorway. The Sign Code of the Zoning Code generally allows one wall sign per tenant, with an area of up to 1.5 times the linear footage of the tenant space. The use of the Zoning Code provisions is a more appropriate use in this retail commercial setting to provide adequate identification and visibility for the commercial tenants.
3. The placement of the proposed wall signage does not provide the required separation from other signage or location, placement within the center 50% of the tenant frontage. However, the requirements as recommended for the tenants with narrow width shall provide a minimum distance of 6 feet from neighboring signs. This should provide adequate distance to avoid visual clutter and satisfy the intent of the sign code provisions.

Standard:

- F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter.*

Facts in Support of Standard:

1. The program does not authorize the use of prohibited signs.

Standard:

- G. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Facts in Support of Standard:

1. The program contains no regulations affecting sign message or content.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2012-004 and Modification Permit No. MD2012-007, subject to the conditions set forth in Exhibit A and the parameters denoted in Exhibit B, which are attached hereto and incorporated by reference.
2. Comprehensive Sign Program and Modification Permit applications do not become effective until 14 days following the date of action. Prior to the effective date, the applicant or any interested party may appeal the decision of the Zoning Administrator to the Planning Commission by submitting a written appeal application to the Community

Development Director. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF MAY, 2012.



Brenda Wisneski, AICP, Zoning Administrator

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EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, details, and elevations, except as noted in the following conditions.
2. Upon demolition or substantial structural and nonstructural changes to the exterior of the development on which this approval is based, this Comprehensive Sign Program and Modification Permit shall be rendered nullified and a new Comprehensive Sign Program shall be obtained for the new or altered development in accordance with the Newport Place Planned Community District Regulations and the Zoning Code Provisions in effect at the time the new development is approved.
3. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the Sign Program Matrix included in Exhibit "B".
4. All signs shall be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the Newport Beach Municipal Code. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42 of the Newport Beach Municipal Code.
5. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the Sign Program Matrix included in Exhibit "B" and any applicable sight distance provisions of Chapter 20.42 of the Newport Beach Municipal Code or required by the Public Works Department (City Standard 110-L, using S=525 feet for MacArthur Boulevard). Additionally, the applicant shall provide Sight Distance Exhibits for review and approval by the Public Works Department prior to issuance of building permits.
6. In accordance with Municipal Code Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected. This may include deviations on the tenant configurations, such as combining or dividing suites.
7. No permanent structures are allowed within the Orange County Sanitation District easement. Show on the site plan that the monument signs are not located within the easement area, verification required prior to issuance of building permits for the signs.
8. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Planning file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately

depict the elements approved by this approval and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

9. A building permit shall be obtained prior to commencement of the construction and/or installation of the signs.
10. A copy of the approval action letter, including conditions of approval and sign matrix, shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits for the freestanding signs, and the initial wall sign installations to identify this approval as the authority for location, size and placement.
11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Newport Place Retail Center Sign Program including, but not limited to Modification Permit No. MD2012-007 and Comprehensive Sign Program No. CS2007-004 (PA2012-024)** and the determination that the project is exempt under the requirements of the California Environmental Quality Act. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

EXHIBIT “B”

SIGN PROGRAM MATRIX

Frontages:

- Building A: Street Elevation - LF: 65 feet 9 inches
 - North Elevation (parking lot) - LF: 62 feet 3 inches
 - South Elevation (parking lot) - LF: 55 feet 9 inches
- Building B: Street Elevation – LF: 65 feet 6 inches
 - North Elevation (parking lot): LF: 127 feet

Type of Sign & Location	Primary Frontage Size limitations, where applicable	Secondary Frontage Size limitations, where applicable	Other Requirements
SIGN TYPE A (Wall Signs) 4225 MacArthur Blvd, Suite A-01	<u>Street Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 75 sq. ft. • Max Sign Width: 50% of Tenant Frontage LF 	<u>North Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 47 sq ft • Max Sign Width: 50% of Tenant Frontage LF <u>South Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 47 sq ft • Max Sign Width: 50% of Elevation LF 	Building A <ul style="list-style-type: none"> • Max Vertical Dimension, Logo or Letter: 36 inches • Location: May be located within the Center 75% of Tenant Frontage • Minimum Distance (LF) from other wall signs: 10 feet
SIGN TYPE A (Wall Signs) 4221 MacArthur, Suite B-01	<u>Street Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 70 sq. ft. • Max Sign Width: 50% of Tenant Frontage LF 	<u>North Elevation:</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 54 sq ft • Max Sign Width: 50% of Tenant Frontage LF 	
SIGN TYPE A (Wall Sign) 4221 Mac Arthur, Suites B-02, B-03, B-04	<u>North Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) per tenant • Max Sign Area: 39 square feet (if suites are combined, the sign width shall not exceed 1.5 x Tenant Frontage LF • Max Sign Width: 14 feet 		Building B <ul style="list-style-type: none"> • Max Vertical Dimension, Logo or Letter: 36 inches • Location: May be located within the Center 75% of Tenant Frontage • Minimum Distance (LF) from other wall signs: 6 feet
SIGN TYPE A (Wall Signs) 4221 MacArthur, Suite B-05	<u>North Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 45 square feet • Max Sign Width: 14 feet 	<u>West Elevation</u> <ul style="list-style-type: none"> • Max Number: 1 (One) • Max Sign Area: 49 sq ft • Max Sign Width: 50% of Tenant Frontage LF 	

Type of Sign & Location	Primary Frontage Size limitations, where applicable	Secondary Frontage Size limitations, where applicable	Other Requirements
SIGN TYPE G (Building Address Signs)	<u>Bldg A and Bldg B</u> <ul style="list-style-type: none"> • Max Number: 1 (One) per building elevation • Minimum Letter/Digit Height: 8 in. • Max Sign Area: 3 sq. ft. 		
SIGN TYPE M (Monument Sign – Multi-Panel and Project Identification Sign) 4221 MacArthur Blvd	<ul style="list-style-type: none"> • Max Height: 6 ft. average • Max Length: 8 ft. in length • Max Sign Area: 32 sq. ft. • Max Vertical Dimension, Logo or Letter: 36 in; 6-in minimum letter height. • Location: Minimum 10 feet from front property line and minimum 60 feet from freestanding sign located at 4225 MacArthur Blvd. • Shall not identify more than 6 retail tenants. 		
SIGN TYPE M (Monument Sign - Multi-panel and Project Identification Sign) 4225 MacArthur Blvd	<ul style="list-style-type: none"> • Max Height: 4 ft. average • Max Length: 4 ft., excluding horizontal architectural elements or base • Max Sign Area: 20 sq. ft. • Max Vertical Dimension, Logo or Letter: 36 in; 6-in minimum letter height. • Location: Minimum 10 feet from front property line and minimum 60 feet from freestanding sign located at 4221 MacArthur Blvd. • Shall not identify more than 2 retail tenants. 		
SIGN TYPE F (Wall Sign - Project/Building Identification Sign) 4221 MacArthur Blvd	Location: North Elevation on Building Architectural Element: Max Sign Area: 11 ft. X 1.5 ft = 16.5 sq. ft.		
SIGN TYPE C (Pedestrian Oriented Signs)	Max Number: 1 (One) per tenant Max Sign Area: 3 sq. ft. Minimum Vertical Clearance from ground: 8 ft Max Length: 4 ft.		
SIGN TYPE E (Window Signs)	Max Sign Area 20% per each window opening Shall be counted as part of the allowed Maximum Tenant Wall Sign Area Number of Signs: One sign per window, not to exceed 20% of window area Locations: Limited to upper <u>or</u> lower 12 inches of window only		

NOTES/REQUIREMENTS:

- a) LF = Linear Feet, a horizontal dimension.
- b) Requirements for all signs per Municipal Code Chapter 20.42, wall sign specifically Section 20.42.080 I and freestanding signs per Section 20.42.080 C, except as provided in this sign matrix. The use located at 4241 MacArthur Blvd may be identified on only one Type M sign
- c) Sign area is the area measured by two perpendicular sets of parallel lines that surround the proposed logo and sign copy. All signs shall substantially conform to the approved attached sign matrix.
- d) Wall signs shall not extend above the building façade or roof, with the exception of Sign Type F which shall not extend above the architectural element as proposed.
- e) Pursuant to Section 20.42.120.F of the Zoning Code, the Community Development Director may approve minor revisions to the Sign Program if the intent of the original approval is not affected. This may include deviations on the tenant configurations, such as combining or dividing suites.
- f) Temporary Banners and exempt signs pursuant to Chapter 20.42, NBMC.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION

3300 Newport Boulevard, Building C, Newport Beach, CA 92663
(949) 644-3200 Fax: (949) 644-3229

www.newportbeachca.gov

**COMMUNITY DEVELOPMENT DIRECTOR ACTION
LETTER**

Date: May 10, 2012

Application No. Staff Approval No. SA2012-009 (PA2012-038)
Establishment of Grade by Director

Applicant Ian Harrison

Site Address 2782 Bay Shore Drive
Bay Shore Grade Determination

Legal Description Lot 4, Tract 03277

On **May 10, 2012**, the Community Development Director approved the following: the establishment of an alternate grade of 12.50 NAVD88 for the purpose of measuring building height that is based on the topography of the subject property and the adjoining properties instead of being based solely on the existing grade of the subject property. The property is located in the R-1 (Single-Unit Residential).

Section 20.30.050C 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.

Finding:

- A. The existing grade on the subject lot has been previously altered 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.

Facts in Support of Finding:

1. The average grades of the lots along Bay Shore Drive, which is adjacent the waterfront, are fairly flat. Variations in grade are typically no more than 6 inches.
2. The applicant presented documentation for the adjoining properties that indicates slightly higher grades than the grade established by the Zoning Code regulations for the subject property of 12.14 NAVD88. The average existing grade of 12.14 NAVD88 on the subject property is lower than the average grade of the two adjoining properties at 2772 Bay Shore Drive (12.62 NAVD88) and 2800 Bay Shore Drive (12.44 NAVD88).

Finding:

- B. The grade is reasonable and comparable with the grades of adjoining lots and will not be detrimental or injurious to property and improvements on adjoining lots.

Facts in Support of Finding:

3. A slightly higher grade of 12.50 NAVD88 is an average grade of the two adjoining lots and consistent with the neighborhood. Therefore, an established grade of 12.50 NAVD88 is consistent and equitable with these lots and with the lots along the waterfront.

Conditions

1. The grade authorized by this determination shall be 12.50 NAVD88.
2. A copy of this action letter including the findings and conditions shall be copied onto the building plans.
3. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Bay Shore grade determination including, but not limited to, the PA2012-038 for SA2012-009. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to

the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

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

On behalf of Kimberly Brandt, Community Development Director

Prepared by:



Melinda Whelan
Assistant Planner

GR/msw

Attachments: CD 1 Vicinity Map
CD 2 Topographic Survey
CD 3 Grade Analysis

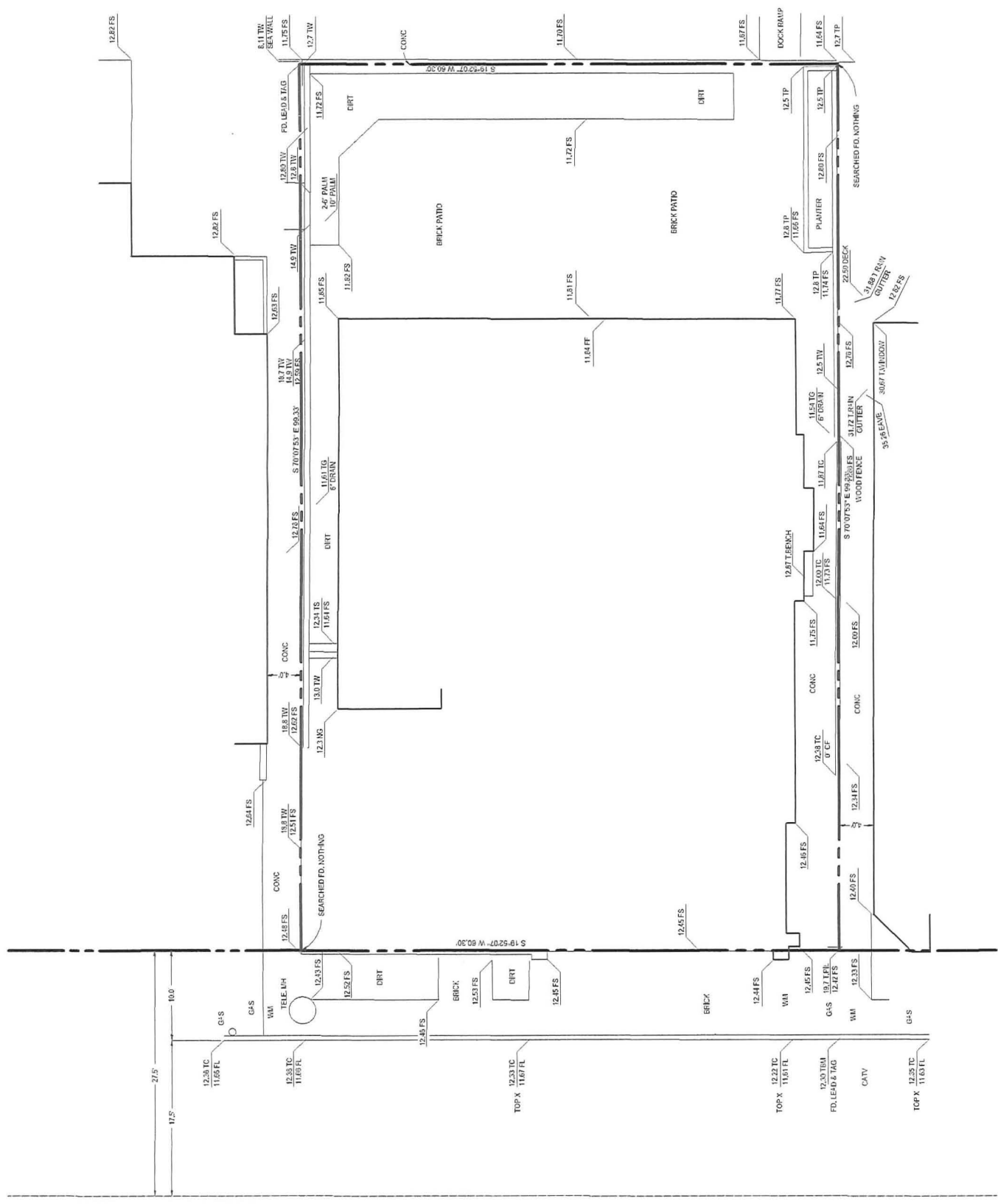
VICINITY MAP



Staff Approval No. SA2012-009
Establishment of Grade
PA2012-038

2782 Bay Shore Drive

BAYSHORE DRIVE



1" = 8'

- LEGEND**
- TC = TOP CURB
 - FL = FLOOR LINE
 - FS = FINISH SURFACE
 - CG = CONCRETE GROUND
 - TW = TOP WALL
 - FF = FINISH FLOOR
 - GFF = GARAGE FINISH FLOOR
 - BN = BACK WALK
 - SCO = SEWER CLEANOUT
 - WV = WATER VALVE
 - WM = WATER MAIN
 - TS = TIE SURFACE
 - TRM = TEMPORARY BENCHMARK

C3

TOPOGRAPHIC MAP

SCALE 1" = 8'-0"	LOT 4 TRACT NO. 3277
DECEMBER 2011	
2782 BAYSHORE DRIVE NEWPORT BEACH CA.	

SOUTH COAST SURVEYING 3214 CLAY ST. NEWPORT BEACH CA, 94931-5310

Grade Analysis of Adjacent Lots as taken from Recorded Surveys

2762 Bay Shore Dr	2772 Bay Shore Dr	2782 Bay Shore Dr	2800 Bay Shore Dr	2812 Bay Shore Dr
(11.14, 12.48, 12.47, 12.28) 12.09	(12.72, 12.57, 12.40, 12.82) 12.62	12.11 (Code) 12.50 (approved grade determination)	(12.82, 12.64, 12.5, 11.8) 12.44	(11.9, 12, 12.7, 12.5) 12.27