



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

**TO:** CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
**FROM:** Kimberly Brandt, Community Development Director  
Brenda Wisneski, Deputy Community Development Director  
**SUBJECT:** Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending November 22, 2013

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

Item 1: Newport Dunes Christmas Trees – XP2013-007 (PA2013-232)  
1131 Back Bay Drive

Action: Approved

Council District 5

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



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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

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

### **ZONING ADMINISTRATOR ACTION LETTER**

**Application No.** Limited Term Permit - Seasonal No. XP2013-007 (PA2013-232)  
**Applicant** Newport Dunes Resort and Marina  
**Site Address** 1131 Back Bay Drive  
Newport Dunes Christmas Trees  
**Legal Description** Parcel Map Book 305, Page 30, Parcel B

On **November 20, 2013**, the Zoning Administrator approved the following: A Limited Term Permit application (seasonal sales) for Christmas tree sales in an existing parking lot located in the PC-48 (Newport Dunes) Zoning District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

#### REQUIRED FINDINGS.

In accordance with Section 20.52.040 (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act Guidelines under Class 4 (Minor Alterations to Land).*

#### Facts in Support of Finding:

- A-1. Class 4 exempts minor temporary uses of land having negligible or no permanent effects on the environment including the sale of Christmas trees.

#### Finding:

- B. *The operation of the requested limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use.*

Facts in Support of Finding:

- B-1. The operation of temporary Christmas tree sales has been reviewed and conditioned to preclude any detriment, and to uphold the general welfare of the area.
- B-2. The subject property has been used for temporary Christmas tree sales in the past and has not proven detrimental or hazardous.

Finding:

- C. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot.*

Facts in Support of Finding:

- C-1. The proposed limited duration use will take place in a 4,800 square-foot (0.11 acres) temporary tent located on a portion of an existing parking lot that is approximately four acres in size. Within the tent will be a tree display area and a temporary office and sales booth.
- C-2. All temporary structures and improvements will be erected on private property.
- C-3. Adjacent properties to the northeast, east, and southeast are buffered from the limited duration use by Back Bay Drive and a private access drive into the parking lot.
- C-4. As conditioned, the applicant is required to maintain public access and parking in accordance with the Newport Dunes Settlement Agreement, including, but not limited to boat launch and trailer parking, wash down, beach and day use facilities, bike trail, human-powered launch, and camping.

Finding:

- D. *The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate.*

Facts in Support of Finding:

- D-1. The subject lot maintains adequate access from Back Bay Drive via a 4-lane access drive.

Finding:

- E. *Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator.*

Facts in Support of Finding:

- E-1. The Christmas tree sales lot is not anticipated to generate an excess of vehicular traffic as high turnover is expected.
- E-2. Adequate temporary parking will be provided by way of the existing Newport Dunes Resort and Marina parking lot.
- E-3. The vehicular traffic anticipated will not impact the parking for patrons and guests of the Newport Dunes Resort and Marina.
- E-4. The project is conditioned so that adequate traffic flow on Back Bay Drive and circulation within the parking lot is maintained.

Finding:

- F. *The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

- F-1. Christmas tree sales will be held no earlier than the day after Thanksgiving and end no later than December 26.
- F-2. The Christmas tree sales lot is conditioned such that it will comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
- F-3. The subject lot is not located within a specific plan.

CONDITIONS OF APPROVAL.

1. The limited duration sales use shall not commence operation prior to November 29, 2013, and shall conclude by December 26, 2013.
2. During event, operator shall maintain public access and parking in accordance with the terms of the Newport Dunes Settlement Agreement, including but not limited to boat launch and trailer parking, wash down, beach and day use facilities, bike trail, human-powered launch, and camping.
3. All temporary structures shall be anchored and a building permit shall be secured for those structures as required by the Building Division.

4. Inspection of all temporary structures is required by a Building Division Inspector. Permittee shall comply with all lawful orders and requirements of the Building Inspector. Inspection approval is required before the canopy can be entered by the public.
5. The limited duration use shall only operate between the hours of 9:00 a.m. and 9:00 p.m., daily.
6. The operator of the limited duration use shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons and equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. If noise generation does not comply with the aforementioned provisions, the Community Development Director may require remediation measures which may include relocation of equipment.
7. Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. If in the opinion of the Community Development Director, existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas he or she may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated. An electrical permit shall be secured for lighting as required by the Building Division.
8. All electrical shall be in good working order and shall be protected from pedestrian traffic.
9. Accommodations for accessibility shall be provided.
10. The site driveway access shall have adequate sight distance pursuant to City Standard STD-110-L.
11. The applicant shall ensure patron vehicles do not impact traffic flow on Back Bay Drive.
12. Operation of the Christmas tree lot/sales shall not impact the vehicular circulation within the remaining parking areas.
13. The site shall be cleaned of debris, litter, or any other evidence of the limited duration use upon completion or removal of the use, and shall continue to be used in compliance with the Zoning Code. The site shall be adequately cleaned and inspected by Code Enforcement by midnight on December 31, 2013. Failure to do so will result in a forfeiture of a portion or the entirety of the \$500 deposit.

14. A valid Business License Tax Certificate shall be secured from the Revenue Division prior to commencement of the limited duration use.
15. All signs shall be in compliance with Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code and the site is limited to two temporary banner signs not to exceed 75 square feet each. Placement of temporary signage shall be subject to Planning Division approval.
16. Signage shall be placed in a manner such that they do not impact views of drivers entering and exiting the site.
17. All proposed temporary structures and any site contents shall be located within the private property lines.
18. The applicant shall provide a minimum of two 2A-10BC fire extinguishers to be mounted in a visible, unobstructed location at a height of three to five feet. Additional fire extinguishers may be necessary to provide additional coverage. Access to an extinguisher from any point shall not exceed a 75-foot travel distance. Extinguishers shall have a current State Fire Marshall servicing tag.
19. All flocking material shall be flame retardant.
20. Combustible ground covering greater than two inches in depth shall not be permitted unless approved by the Fire Department. Straw and other combustible ground covering shall be maintained in a damp or moist condition and/or be treated with an approved fire-retardant chemical.
21. Open flames such as, but not limited to, torches, candles, warming devices, and other devices using a flame capable of igniting combustible materials shall not be used in or adjacent to tents or canopies. Open flames shall also not be used near or on combustible decorations or materials such as, but not limited to weeds, straw, hay and the like unless previously approved by the Fire Department.
22. Smoking shall not be permitted in tents or canopies or in adjacent areas where hay, straw, sawdust, Christmas trees, or other combustible materials are being used, displayed, or stored. "NO-SMOKING" signs shall be conspicuously posted throughout the lot and in the tent or canopy as well as all points of entry in such a manner that they are visible to all patrons who enter the premises.
23. All weeds, combustible vegetation, trash and combustible storage shall be removed from areas adjacent to and within 30 feet of tents and canopies.
24. The applicant shall contact the Fire Department and obtain necessary permitting if a tent or canopy is proposed on the lot. All tents or canopies shall be consistent with Fire Department Guideline A.03 – Tents and Temporary Membrane Structures.

25. The approval of the requested limited term permit is contingent upon compliance with applicable provisions of the Municipal Code and the successful granting of all required permits from any other department or governing agency.
26. *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 Dunes Christmas Trees including, but not limited to, the XP2013-007 (PA2013-232). 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 14 days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at (949) 644-3200.

On behalf of Brenda Wisneski, Zoning Administrator

By:



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Jason Van Patten  
Planning Technician

JM/jvp

Attachments:      ZA 1 Vicinity Map  
                            ZA 2 Site Plan

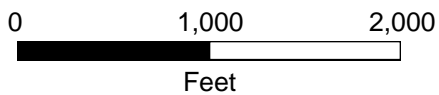
# **Attachment No. ZA 1**

Vicinity Map





Newport  
Beach  
GIS



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

Imagery: 2009-2011 photos provided by Eagle Imaging [www.eagleaerial.com](http://www.eagleaerial.com)



# **Attachment No. ZA 2**

Site Plan

# NEWPORT DUNES TREE LOT

■ FIRE EXTINGUISHERS

■ NO SMOKING SIGNS

