



**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 28, 2014

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

- Item 1: Christmas Trees-R-Us Limited Term (Seasonal) Permit No. XP2014-004
(PA2014-188)
2430 W. Coast Highway
- Action: Approved Council District 3
- Item 2: Gallo's Christmas Tree Lot Limited Term (Seasonal) Permit No. XP2014-005
(PA2014-199)
3928 E. Coast Highway
- Action: Approved Council District 6

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

ZONING ADMINISTRATOR ACTION LETTER

Application No. Limited Term Permit – Seasonal No. XP2014-004 (PA2014-188)
Applicant Christmas Trees-R-U's – Terry Ulven
Site Address 2430 W. Coast Highway
Christmas Trees-R-U's
Legal Description Portions of Lot A, Tract 919

On **November 26, 2014**, the Zoning Administrator approved a Limited Term Permit for Christmas tree sales (seasonal sales) on property located in the MU-MM (Mixed Use – Mariner's Mile) Zoning District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** MU-MM (Mixed Use-Mariner's Mile)
- **General Plan:** MU-H1 (Mixed-Use Horizontal)

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:

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:

1. The operation of temporary Christmas tree sales has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
2. The subject property is developed with a single-story commercial building fronting West Coast Highway, two single-story commercial buildings towards the rear of the property, and a 15 space parking lot. The site is currently unoccupied.
3. Christmas tree sales will take place in a display tent towards the rear of the property. No other activities other than the sale of Christmas trees will take place on the property limiting any detriment or hazard to the public convenience, health, or safety of persons residing or working in the neighborhood.

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:

1. The proposed limited duration use will take place in a 1,500 square-foot temporary tent located on a lot that is approximately one-half acre in size. Within the tent will be a tree display area.
2. All temporary structures and improvements will be erected on private property.
3. As conditioned, the applicant is required to maintain public access and parking within the on-site lot.

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:

1. The subject lot is adequately served by West Coast Highway via an existing access drive that is of sufficient width to accommodate vehicles travelling to the Christmas tree lot.

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:

1. The Christmas tree sales lot is not anticipated to generate an excess of vehicular traffic because high turnover is expected.
2. Adequate temporary parking will be provided by way of the existing on-site parking lot.
3. The project is conditioned requiring that adequate traffic flow on West Coast Highway and circulation within the parking lot be 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:

1. Christmas tree sales will be held no earlier than November 28 and end no later than December 26.
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.
3. The subject lot is not located within a specific plan area.

CONDITIONS OF APPROVAL

1. The limited duration sales use shall not commence operation prior to November 28, 2014, and shall conclude by December 26, 2014.
2. All temporary structures shall be anchored and a building permit shall be secured for those structures as required by the Building Division.
3. Each parking space shall be permanently available and maintained for parking. Any obstructions shall be removed.
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. An electrical permit shall be obtained and the site inspected by the Building Division.
9. Disabled access parking shall be provided with proper loading zone.
10. The site driveway access shall have adequate sight distance pursuant to City Standard STD-110-L.
11. The parking layout shall be consistent with City Standard STD-805-L-A and STD-805-L-B.
12. The applicant shall ensure patron vehicles do not impact traffic flow on West Coast Highway.
13. The applicant shall provide a dedicated vehicular turnaround and minimum five-foot hammerhead shall be provided.
14. Operation of the Christmas tree lot/sales shall not impact the vehicular circulation within the remaining parking areas.
15. 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, 2014. Failure to do so will result in a forfeiture of a portion or the entirety of the \$500 deposit.

16. A valid Business License Tax Certificate shall be secured from the Revenue Division prior to commencement of the limited duration use.
17. 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.
18. Signage and fencing shall be placed in a manner such that it does not impact views of drivers entering and exiting the site.
19. All proposed temporary structures and any site contents shall be located within the private property lines.
20. Tents shall comply with Newport Beach Fire Department Guideline A.03. Tents and temporary membrane structures require a plot plan and permit issued through the Fire Department.
21. Trees shall not be allowed in structures.
22. 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.
23. Fuel powered equipment (generators) shall be a minimum of 20 feet from any combustible materials (including Christmas trees) pursuant to CFC Section 5704.4.6 and 3103.8.2.
24. Fuel powered equipment (generators) shall be isolated from contact with the public by physical guards, fencing or enclosure.
25. Motor vehicles shall maintain a minimum of 20 feet from all trees stored on the lot and any tents on the property.
26. Open flame devices 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.
27. All weeds, combustible vegetation, trash and combustible storage shall be removed from areas adjacent to and within 30 feet of tents and canopies.
28. 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.

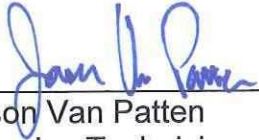
29. All flocking material shall be flame retardant.
30. Smoking shall not be permitted in tents or canopies or in adjacent areas where hay, straw, sawdust, Christmas trees, or other combustible materials are being used, displayed, or stored. "NO-SMOKING" signs shall be conspicuously posted throughout 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.
31. 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.
32. 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 Christmas Trees-R-Us including, but not limited to, XP2014-004 (PA2014-188). 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. For additional information on filing an appeal, contact the Planning Division at (949)644-3200.

On behalf of Brenda Wisneski, Zoning Administrator

By:



Jason Van Patten
Planning Technician

JM/jvp

Attachments: ZA 1 Vicinity Map
 ZA 2 Site Plan

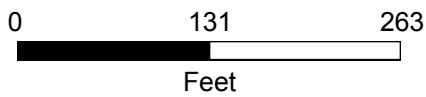
Attachment No. ZA 1

Vicinity Map



Subject Property

Newport
Beach
GIS



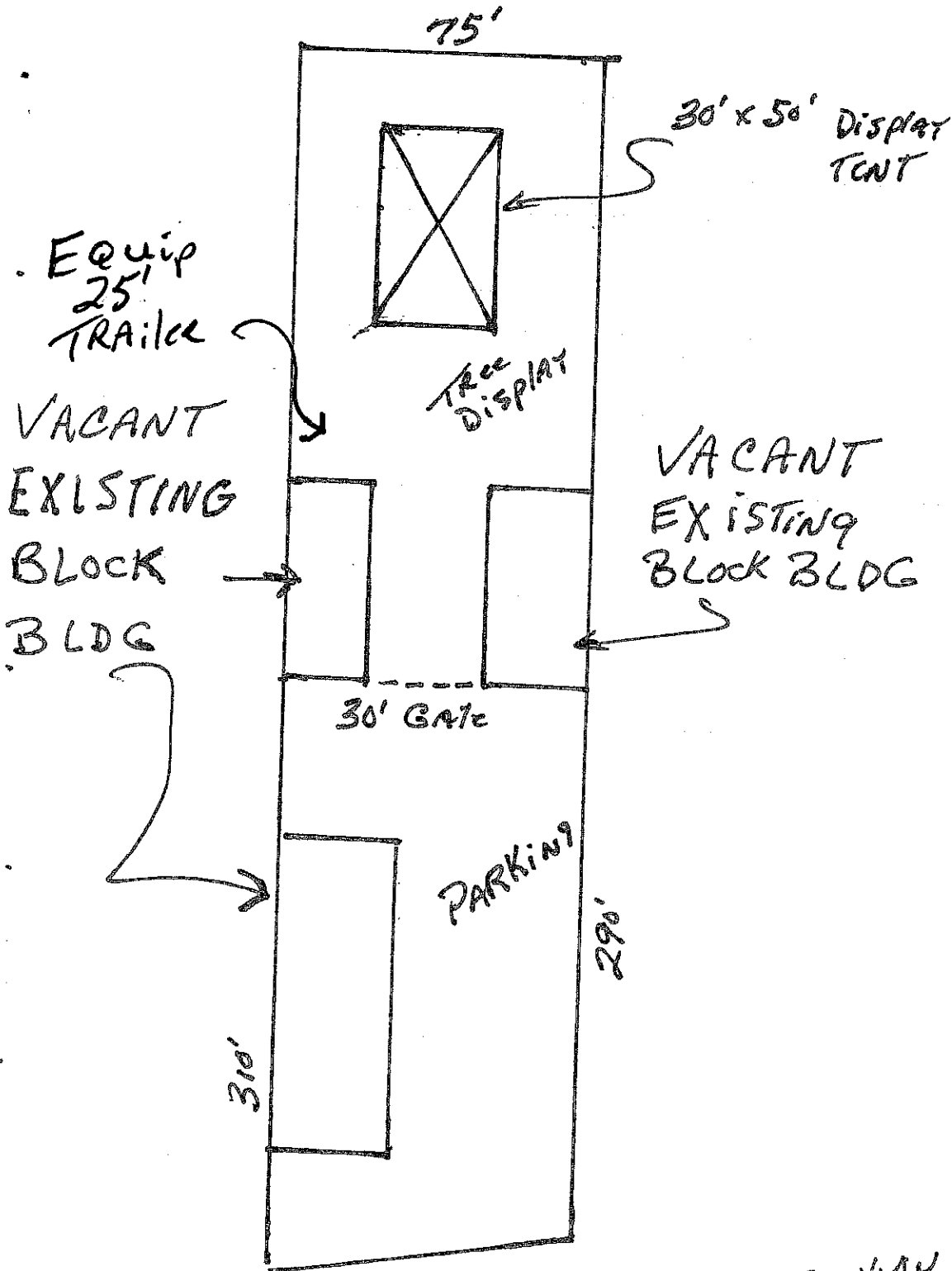
Disclaimer: Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.

Imagery: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

Attachment No. ZA 2

Site Plan

1/4" = 10'



2430 PACIFIC COAST HWY



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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ZONING ADMINISTRATOR ACTION LETTER

Application No. Limited Term Permit – Seasonal No. XP2014-005 (PA2014-199)
Applicant Eric Hanna
Site Address 3928 E. Coast Highway
3928 E. Coast Highway Christmas Tree Lot
Legal Description Lot 56, 57, 58, Block B, Tract 673 and Port. of Abandoned Alley

On **November 26, 2014**, the Zoning Administrator approved a Limited Term Permit for Christmas tree sales (seasonal sales) on property located in the RM (Multi-Unit Residential) Zoning District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** RM (Multi-Unit Residential)
- **General Plan:** RM (Multiple-Unit Residential)

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:

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:

1. The operation of temporary Christmas tree sales has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
2. The subject property has been used for temporary Christmas tree sales in the past and has not proven detrimental or hazardous to public convenience, health, or safety of persons residing or working in the neighborhood.
3. Christmas tree sales will take place in a display tent toward the rear of the property. No other activities other than the sale of Christmas trees will take place on the property, limiting any detriment or hazard.

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:

1. The proposed limited duration use will take place in temporary tents located on a lot that is approximately one-quarter acre in size (11,700 square feet). Within the tent will be a tree display area.
2. All temporary structures and improvements will be erected on private property.
3. As conditioned, the applicant is required to maintain public access and parking within the on-site lot.

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:

1. The subject lot is adequately served by East Coast Highway via an existing access drive located at 3916 East Coast Highway that is of sufficient width to accommodate vehicles traveling to the Christmas tree lot.

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:

1. The Christmas tree sales lot is not anticipated to generate an excess of vehicular traffic because high turnover is expected.
2. Adequate temporary parking will be provided by way of the existing spaces on the subject lot and on the abutting property at 3916 East Coast Highway. In addition, on-street spaces will be available for use.
3. The existing take-out service limited, eating and drinking establishment (Gallo's Italian Subs) located at 3900 East Coast Highway is adequately served by spaces on-site and will not be negatively impacted by the proposed limited duration use.
4. The project is conditioned requiring that adequate traffic flow on East Coast Highway and circulation within the parking lot be 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:

1. Christmas tree sales will be held no earlier than November 28, 2014 and end no later than December 26, 2014.
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.
3. The subject lot is not located within a specific plan area.

CONDITIONS OF APPROVAL

1. The limited duration sales use shall not commence operation prior to November 28, 2014, and shall conclude by December 26, 2014.
2. All temporary structures shall be anchored and a building permit shall be obtained for those structures as required by the Building Division.
3. Each parking space shall be permanently available and maintained for parking. Any obstructions shall be removed.

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. An electrical permit shall be obtained and the site inspected by the Building Division.
9. Disabled access parking shall be provided with proper loading zone.
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 East Coast Highway.
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, 2014. 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 and fencing shall be placed in a manner such that it does 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. Tents shall comply with Newport Beach Fire Department Guideline A.03. Tents and temporary membrane structures require a plot plan and permit issued through the Fire Department.
19. Trees shall not be allowed in structures.
20. 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.
21. Fuel powered equipment (generators) shall be a minimum of 20 feet from any combustible materials (including Christmas trees) pursuant to CFC Section 5704.4.6 and 3103.8.2.
22. Fuel powered equipment (generators) shall be isolated from contact with the public by physical guards, fencing or enclosure.
23. Motor vehicles shall maintain a minimum of 20 feet from all trees stored on the lot and any tents on the property.
24. Open flame devices 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.
25. All weeds, combustible vegetation, trash and combustible storage shall be removed from areas adjacent to and within 30 feet of tents and canopies.
26. Combustible ground covering greater than two inches in depth shall not be permitted unless approved by the Fire Department. Straw and other combustible

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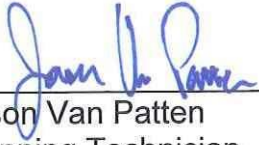
27. All flocking material shall be flame retardant.
28. Smoking shall not be permitted in tents or canopies or in adjacent areas where hay, straw, sawdust, Christmas trees, or other combustible materials are being used, displayed, or stored. "NO-SMOKING" signs shall be conspicuously posted throughout 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.
29. 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.
30. 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 Gallo's Christmas Tree Lot including, but not limited to, XP2014-005 (PA2014-199). 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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

On behalf of Brenda Wisneski, Zoning Administrator

By:



Jason Van Patten
Planning Technician

JM/jvp

Attachments: ZA 1 Vicinity Map
 ZA 2 Site Plan

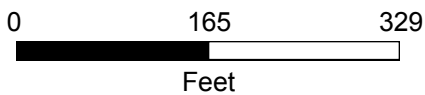
Attachment No. ZA 1

Vicinity Map



Subject Property

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: 2009-2013 photos provided by Eagle Imaging www.eagleaerial.com

Attachment No. ZA 2

Site Plan

