



**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 June 2, 2017.

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

Item 1: Lido Sands Community Association Recreation Area Staff Approval No. SA2017-002  
(PA2017-034)  
Site Address: 4700 Lido Sands Drive (formerly 4700 River Avenue)

Action: Approved Council District 1

**ACTION TAKEN BY THE CHIEF OF POLICE**  
(Non-Hearing Item)

Item 1: Big Newport 6 Theater Operator License No. OL2016-002 (PA2016-020)  
Site Address: 1300 Newport Center Drive

Action: Approved Council District 5

APPEAL PERIOD: An appeal or call for review 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.

cc: Wendy Joe, Civilian Investigator, NBPD  
Sgt. Brad Miller, NBPD



## COMMUNITY DEVELOPMENT DEPARTMENT

### PLANNING DIVISION

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

949-644-3200

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

## **COMMUNITY DEVELOPMENT DIRECTOR** **ACTION LETTER**

**Application No.**      **Staff Approval No. SA2017-002 (PA2017-034)**

**Applicant**            **Fulsang Architecture, Inc.**

**Site Location**        **4700 Lido Sands Drive (formerly 4700 River Avenue)**  
**Lido Sands Community Association Recreation Area**

**Legal**  
**Description**         **Lot 83 of Tract No. 3162**

On **June 2, 2017**, the Community Development Director approved Staff Approval No. SA2017-002. This approval is based on the following review and subject to the following conditions.

### **PROJECT SUMMARY**

The Applicant plans to replace the existing pool house structure and upgrade the community recreational area for the Lido Sands Community Association.

### **LAND USE INFORMATION**

- **General Plan:** Single-Unit Residential Detached (RS-D)
- **Zoning District:** Single-Unit Residential (R-1)
- **Coastal Land Use:** Single-Unit Residential Detached (RSD-B)
- **Coastal Zoning District:** Single-Unit Residential (R-1)

### **I. BACKGROUND AND PROJECT DESCRIPTION**

The property is part of Tract No. 3162, approved by the Planning Commission in 1956, and recorded in 1957. At the time of subdivision, the tract was zoned Light Commercial (C-1-H), which allowed single-family homes with Planning Commission approval. The developer's proposal included 82 residences and a private community center consisting of a pool and associated restrooms. The residences and community center were constructed in 1958. In 1973, the tract was rezoned to Single-Unit Residential (R-1) consistent with the current designation.

Based on correspondence submitted with the application (Attachment No. CD 2), the pool house is in need of replacement. As part of this project, the surrounding recreational area would also be upgraded.

## **II. PROPOSED CHANGES**

The proposed project would replace the existing 372-square-foot pool house with a new 938-square-foot pool house that would include two restrooms, a meeting room with kitchen, and a storage room. The new single-story structure would be compliant with all Code requirements, including those related to disabled accessibility and energy efficiency.

Also proposed are the following:

- Replacement of all existing garden walls and hardscape;
- Construction of a new covered entry to match the new pool house;
- Construction of a new freestanding trellis near the pool and play areas;
- Planting of new landscaping along Lido Sands Drive; and
- Relocation of the existing pool equipment to an enclosed pad.

The proposed project will improve the existing community center and recreational area, which has been used by residents of the Lido Sands Community since 1958.

## **III. FINDINGS**

### ***Title 20 (Planning and Zoning)***

Pursuant to Newport Beach Municipal Code (NBMC) Section 20.54.070 (Changes to an Approved Project), the Director may authorize minor changes to an approved site plan, architecture, or the nature of an approved use, without a public hearing, where the Director first finds that the changes:

- A. Are consistent with all applicable provisions of this Zoning Code;*

#### Facts in Support of Finding:

1. The existing community center and related recreational area were approved as part of Tract No. 3162 in 1957, with intentions of serving the residents of the Lido Sands Community.
2. Accessory uses and structures (e.g., pools and spas, play equipment) are permitted in the R-1 District pursuant to Table 2-1 (Allowed Uses and Permit Requirements) in NBMC Section 20.18.20.
3. The community center and recreational areas have been used by residents of the Lido Sands Community since 1958. The proposed project will improve the existing facility without expanding or intensifying the intended use as the number of residents served will not increase.

4. The proposed replacement structure complies with all applicable Zoning Code development standards including, but not limited to, setbacks, height and floor area.
  - i. This property has a required front setback of 5 feet with no other setbacks identified. The proposed project maintains a minimum 5-foot setback around the entire perimeter.
  - ii. The maximum height allowable is 24 feet for a flat roof and 29 feet for a sloped roof. The proposed structure is 19 feet, 6 inches at its tallest point.
  - iii. The maximum floor area limit is two times the buildable area. The proposed project is far below the maximum floor area limit at 938 square feet.

Finding:

- B. Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or environmental impact report for the project;*

Facts in Support of Finding:

1. There were no environmental studies associated with the 1956 approval of Tract No. 3162, including its accessory community recreational area.
2. The proposed project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment. The proposed project is the replacement of an existing pool house structure and related upgrades, which will have substantially the same purpose and capacity.

Finding:

- C. Do not involve a feature of the project that was specifically addressed or was the subject of condition(s) of approval for the project that was a specific consideration by the applicable review authority in the project approval; and*

Fact in Support of Finding:

Planning Commission's approval of Tract No. 3162 included a condition of approval to expressly ensure the developer constructed a community center with a pool and restrooms. No other review or conditions of approval pertained to these features. The proposed project will improve upon the existing community center by providing updated amenities for the residents of the Lido Sands Community.

Finding:

- D. Do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The existing pool house is 372 square feet in area and consists of covered area, restrooms, storage, and pool equipment. The proposed pool house will be 938-square-feet in area and will consist of covered area, restrooms, storage, and a meeting room with a kitchen. The proposed structure will be sited in substantially the same location and will maintain similar uses as the existing structure.
2. See Fact in Support of Finding A(3) above.

***Title 21 (Local Coastal Program Implementation Plan)***

The proposed project is also consistent with all applicable provisions of Title 21 including, but not limited to the following:

1. The project site is approximately 600 feet from the beach, is not located within the Appeal Area and is located within the Categorical Exclusion Area. There are no impediments (existing or proposed) to coastal access.
2. The replacement of the existing pool house will not result in a change to the intensity of the project site as it will continue to serve the residents of the Lido Sands Community. There will be no increased density as a result of this project. As it is a new structure, the replacement is considered development and will require a Coastal Development Permit or a waiver thereof.
3. The proposed replacement structure complies with all applicable Implementation Program development standards including, but not limited to, setbacks, height and floor area.
  - i. This property has a required front setback of 5 feet with no other setbacks identified. The proposed project maintains a minimum 5-foot setback around the entire perimeter.
  - ii. The maximum height allowable is 24 feet for a flat roof and 29 feet for a sloped roof. The proposed structure is 19 feet, 6 inches at its tallest point.
  - iii. The maximum floor area limit is two times the buildable area. The proposed project is far below the maximum floor area limit at 938 square feet.

**IV. CONDITIONS**

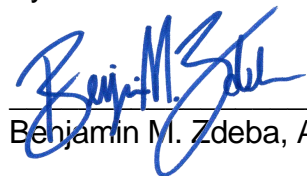
1. The development shall be in substantial conformance with the approved site plan, floor plan(s) and building elevations dated April 17, 2017.
2. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require additional approvals.

3. Prior to the issuance of a building permit, the applicant shall obtain an effective coastal development permit or a waiver thereof.
4. The applicant is required to obtain all applicable permits from the City Building and Fire Departments. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
5. 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 Lido Sands Community Association Recreational Area including, but not limited to, Staff Approval No. SA2017-002 (PA2017-034). 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 or call for review 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. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Kimberly Brandt, AICP, Community Development Director

By:



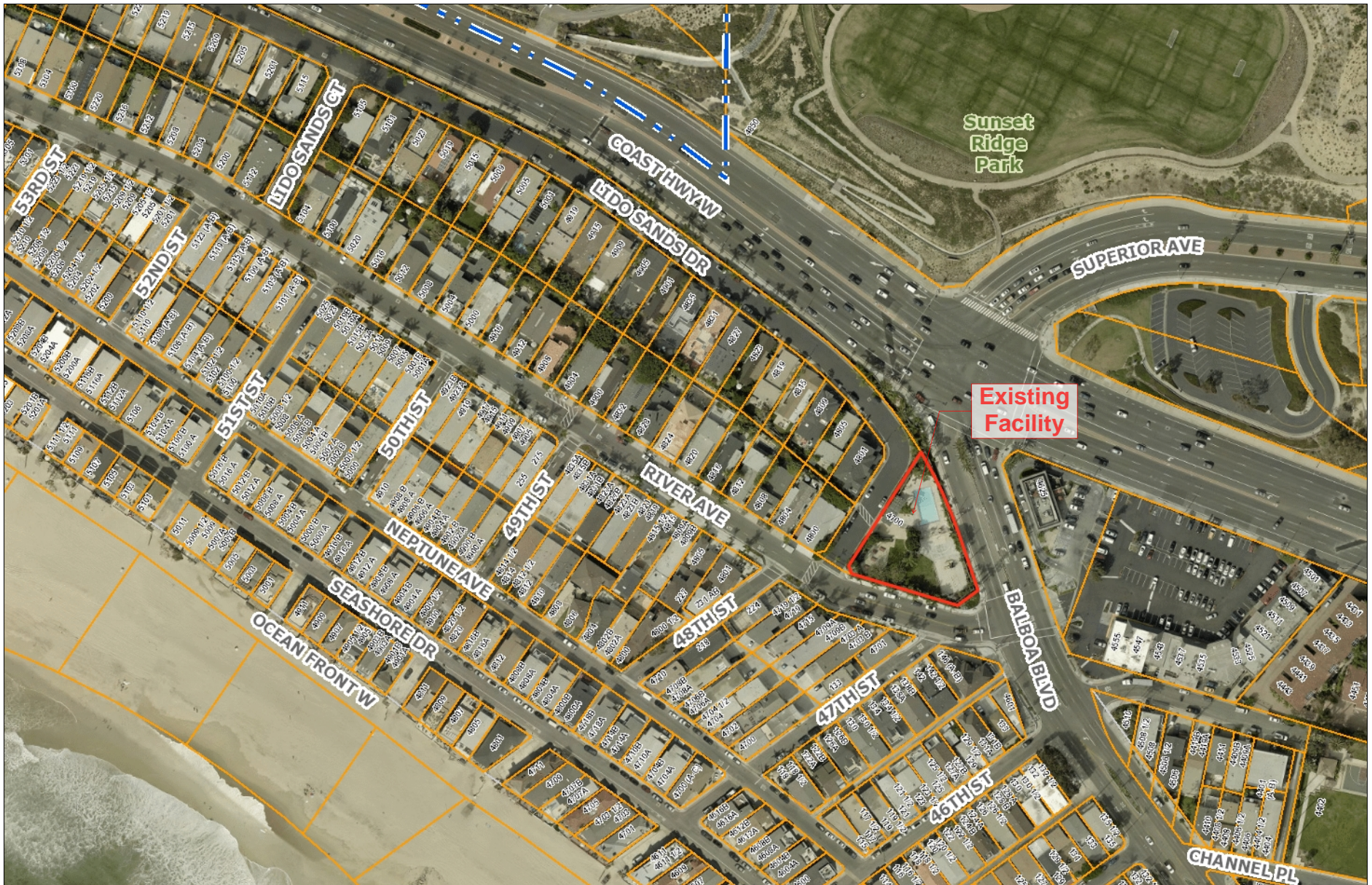
Benjamin M. Zdeba, AICP, Associate Planner

JWC/bmz

Attachments: CD 1 Vicinity Map  
CD 2 Applicant's Project Description and Justification  
CD 3 Project Plans  
CD 4 Tract No. 3162 Approval Documents

# **Attachment No. CD 1**

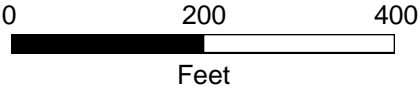
Vicinity Map



Existing Facility



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](http://www.eagleaerial.com)



# **Attachment No. CD 2**

Applicant's Project Description and Justification

**Fulsang Architecture, Inc.**

3471 Via Lido  
Suite 202  
Newport Beach, CA 92663

February 5, 2017

**Re: Lido Sands Pool House Project Description**

**Site Address: 4700 Lido Sands Drive, Newport Beach, CA 92663**

To Newport Beach Planning Director,

The Lido Sands Community Recreation Area which includes a pool and pool house is in need of replacement of the pool house due to the age of the structure. It was built in 1958 and currently provide two bathrooms, storage space and pool equipment for heat and filtration.

The proposed project would include a new pool house with ADA compliant bathrooms as well as a community meeting room for the residents. In addition the community would like to add a covered entry element and do some general improvements to the landscape and hardscape. The concrete hardscape would be replaced and a sidewalk would be added on the street where there is just landscaping now. A row of mature palm trees would be added along the street as well with landscaping to match what the City has done in the area on River Ave.

The original design was done by architect A. Quincy Jones. The new design will preserve some of the postmodernist design style of that era with some contemporary embellishments. Trellis features or pergolas would be added along the clubhouse and at the end of the pool and at the end of the sand play area that we call the nanny area to provide some shading.

The pool equipment would be moved to an exterior location at the north corner of the property and would be pad mounted and enclosed with a screen wall.

We feel that the new design would be an asset to both the residents and the appearance would also enhance the neighborhood in general.

Best regards  
Eric Fulsang Architect  
Fulsang Architecture, Inc.  
949-838-4139



# **Attachment No. CD 3**

Project Plans

# LIDO SANDS REC AREA

4600 LIDO SANDS DRIVE  
NEWPORT BEACH, CA 92663

**FULSANG**  
**ARCHITECTURE**  
3471 VIA LIDO, SUITE 202  
NEWPORT BEACH, CA 92663  
PHONE: (949) 838-4139

SEAL



ISSUED FOR: CITY COMMENTS  
ISSUE DATE: 04/17/2017  
PROJECT No. FA160901  
DRAWN BY: EA CHECKED BY: EF

### SUBMITTALS

REV.	DATE	DESCRIPTION	BY
0	02/13/17	REVIEW	EA
A	04/17/17	CITY COMMENTS	EA

LIDO SANDS REC AREA  
4600 LIDO SANDS DRIVE  
NEWPORT BEACH, CA 92663

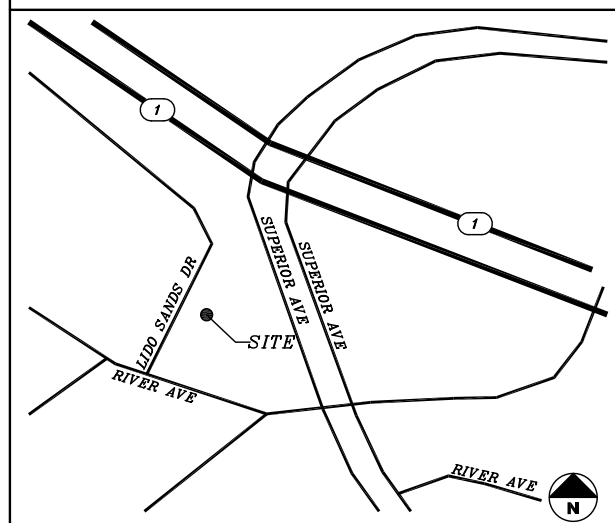
SHEET TITLE

**TITLE SHEET**

SHEET NUMBER

**T-1**

### VICINITY MAP



### GENERAL CONTRACTOR NOTES

CONTRACTOR SHALL VERIFY ALL PLANS WITH EXISTING DIMENSIONS AND CONDITIONS ON THE JOB SITE AND SHALL IMMEDIATELY NOTIFY THE ARCHITECT IN WRITING OF ANY DISCREPANCIES BEFORE PROCEEDING WITH THE WORK OR BE RESPONSIBLE FOR SAME.

### CODE COMPLIANCE

ALL WORK AND MATERIALS SHALL BE PERFORMED AND INSTALLED IN ACCORDANCE WITH THE CURRENT EDITIONS OF THE CODES AS ADOPTED BY THE LOCAL GOVERNING AUTHORITIES. NOTHING IN THESE PLANS IS TO BE CONSTRUED TO PERMIT WORK NOT CONFORMING TO THE LOCAL CODES.

- |                                                              |                                                  |
|--------------------------------------------------------------|--------------------------------------------------|
| 1. CALIFORNIA ADMINISTRATIVE CODE (INCL TITLES 24 & 25) 2016 | 6. CALIFORNIA ELECTRIC CODE 2016                 |
| 2. CALIFORNIA BUILDING CODE 2016                             | 7. CALIFORNIA FIRE CODE 2016                     |
| 3. ANSI/EIA-222-F LIFE SAFETY CODE NFPA-101 2016             | 8. LOCAL BUILDING CODE                           |
| 4. CALIFORNIA MECHANICAL CODE 2016                           | 9. CITY/COUNTY ORDINANCES                        |
| 5. CALIFORNIA PLUMBING CODE 2016                             | 10. CALIFORNIA ENERGY EFFICIENCY STANDARD 2016   |
|                                                              | 11. CALIFORNIA GREEN BUILDING STANDARD CODE 2016 |

### PROJECT TEAM

#### ARCHITECT

FULSANG ARCHITECTURE INC.  
3471 VIA LIDO, SUITE 202  
NEWPORT BEACH, CA 92663  
CONTACT: ERIC FULSANG  
PHONE: (949) 838-4139

### PROJECT DESCRIPTION

PROJECT CONSISTS OF:

- DEMOLITION OF EXISTING 372 SQ FT CLUBHOUSE
- CONSTRUCTION OF NEW 938 SQ FT CLUBHOUSE WITH MEETING ROOM, (2) ADA BATHROOMS AND SMALL STORAGE
- REPLACEMENT OF (E) GARDEN WALLS W/ NEW
- REPLACEMENT OF (E) HARDSCAPE W/NEW
- (E) W.I. ENTRY GATE TO BE REPLACED W/ NEW GATE AND COVERED ENTRY TO MATCH CLUBHOUSE
- (E) POOL ACCESS GATE TO BE REPLACED W/ NEW
- RE-LOCATION OF (E) RECYCLE BINS
- CONSTRUCTION OF NEW FREE STANDING TRELLIS @ POOL AND PLAY AREA SOUTH SIDE
- CONSTRUCTION OF SIDEWALK @ LIDO SAND DRIVE AND (8) PALM TREES & LANDSCAPING TO MATCH EXISTING CITY LANDSCAPING
- RELOCATION OF POOL EQUIPMENT TO PAD MOUNTED @ NORTH CORNER OF PROPERTY W/ CMU ENCLOSURE

### PROJECT INFORMATION

#### APPLICANT/LESSEE

FULSANG ARCHITECTURE INC.  
3471 VIA LIDO, SUITE 202  
NEWPORT BEACH, CA 92663  
CONTACT: ERIC FULSANG  
PHONE: (949) 838-4139

#### PROPERTY OWNER

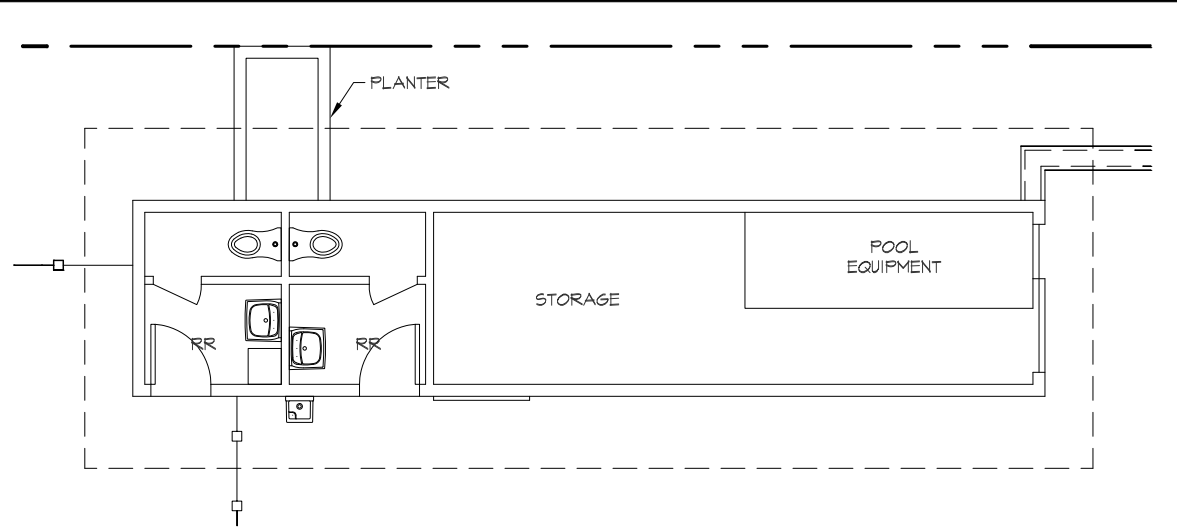
PROPERTY OWNER: LIDO SANDS COMMUNITY ASSOCIATION  
CONTACT PERSON: NICOLAS GLAZER  
CONTACT NUMBER: (949) 306-8339  
PROPERTY OWNER ADDRESS: 4600 LIDO SANDS DRIVE NEWPORT BEACH, CA 92663

#### PROPERTY INFORMATION

A.P.N.: 114-211-46  
JURISDICTION: CITY OF NEWPORT BEACH  
CURRENT ZONING: TBD  
OCCUPANCY TYPE: A-3  
TYPE OF CONSTRUCTION: V-B  
SPRINKLERED: NO  
NUMBER OF STORIES: 1  
LEGAL DESCRIPTION: LOT 86 OF TRACT NO 3162

### SHEET INDEX

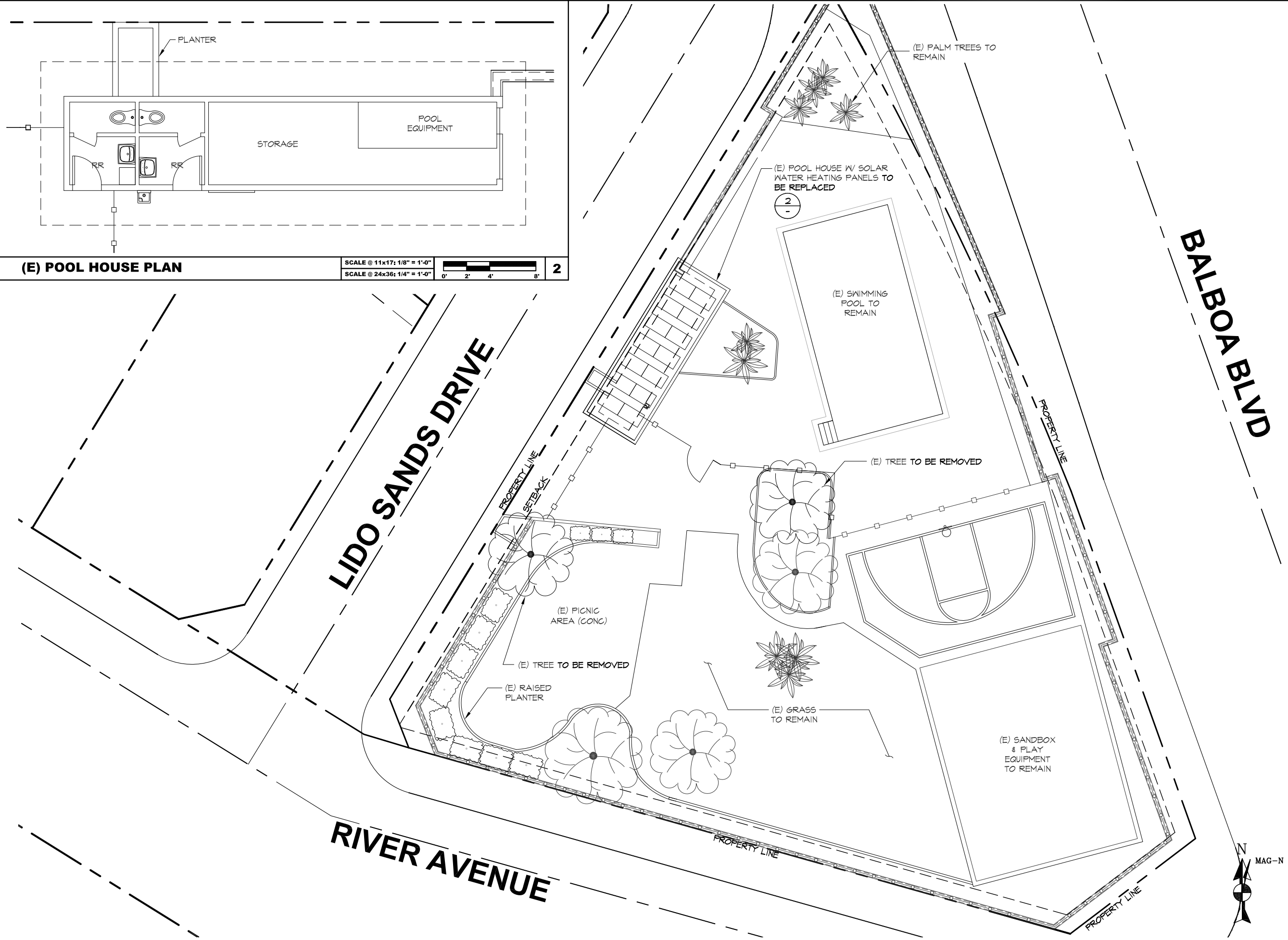
SHEET	DESCRIPTION
T-1	TITLE SHEET
A-1.0	EXISTING OVERALL SITE PLAN
A-1.1	PROPOSED OVERALL SITE PLAN
A-1.2	ENLARGED SITE PLAN
A-2.0	ROOF PLAN
A-2.1	FLOOR PLAN
A-3	ELEVATIONS
A-4	ELEVATION, ENLARGED DETAIL & SECTION



**(E) POOL HOUSE PLAN**

SCALE @ 11x17: 1/8" = 1'-0"  
 SCALE @ 24x36: 1/4" = 1'-0"  
 0' 2' 4' 8'

**2**

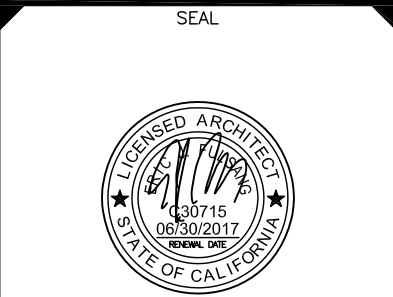


**EXISTING OVERALL SITE PLAN**

SCALE @ 11x17: 3/64" = 1'-0"  
 SCALE @ 24x36: 3/32" = 1'-0"  
 0' 6' 12' 18' 24'

**1**

**FULSANG ARCHITECTURE**  
 3471 VIA LIDO, SUITE 202  
 NEWPORT BEACH, CA 92663  
 PHONE: (949) 838-4139



ISSUED FOR: CITY COMMENTS  
 ISSUE DATE: 04/17/2017  
 PROJECT No. FA160901  
 DRAWN BY: EA CHECKED BY: EF

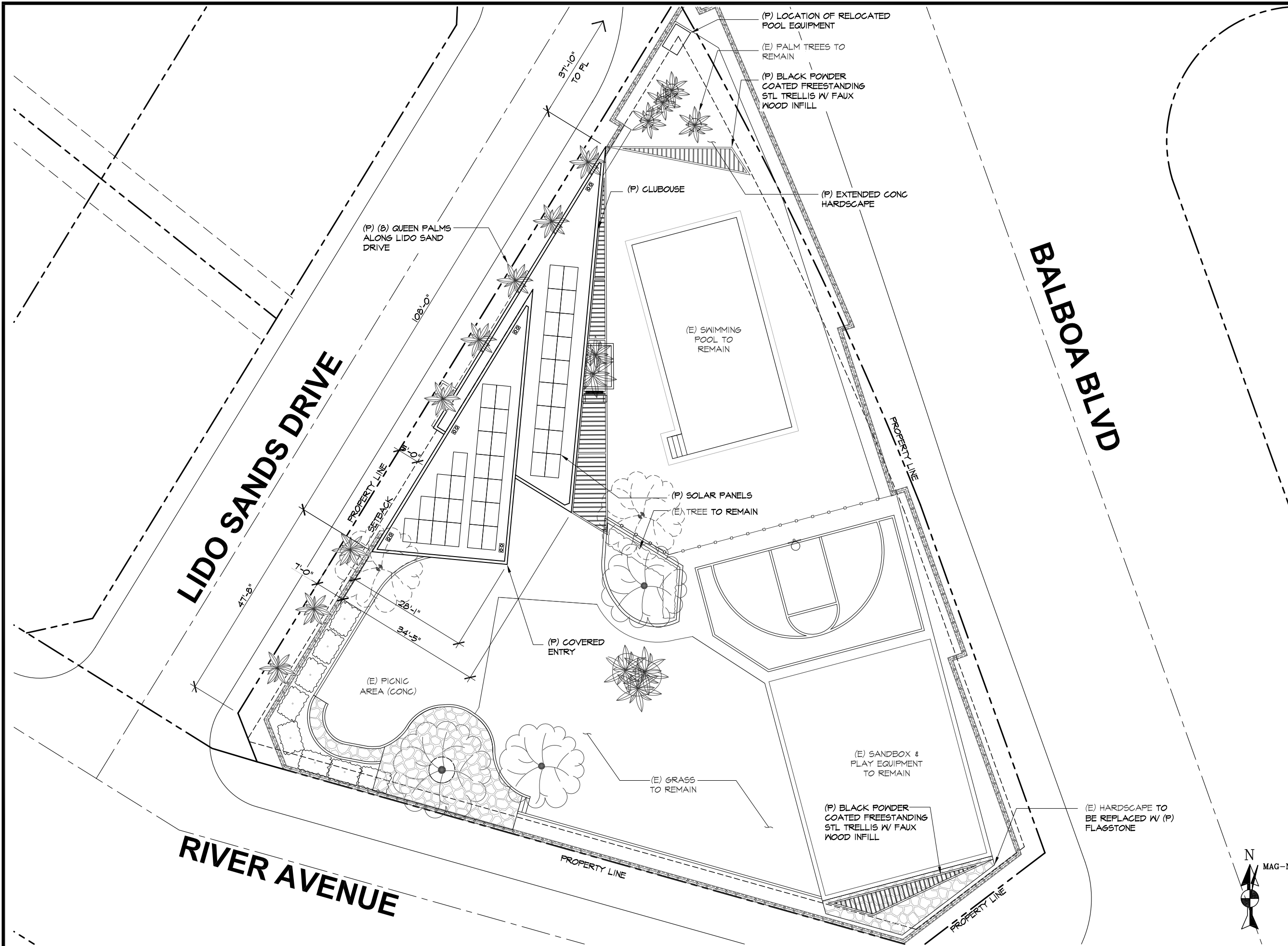
SUBMITTALS

REV.	DATE	DESCRIPTION	BY
0	02/13/17	REVIEW	EA
A	04/17/17	CITY COMMENTS	EA

LIDO SANDS REC AREA  
 4600 LIDO SANDS DRIVE  
 NEWPORT BEACH, CA 92663

SHEET TITLE  
**EXISTING OVERALL SITE PLAN**

SHEET NUMBER  
**A-1.0**



**FULSANG ARCHITECTURE**  
 3471 VIA LIDO, SUITE 202  
 NEWPORT BEACH, CA 92663  
 PHONE: (949) 838-4139



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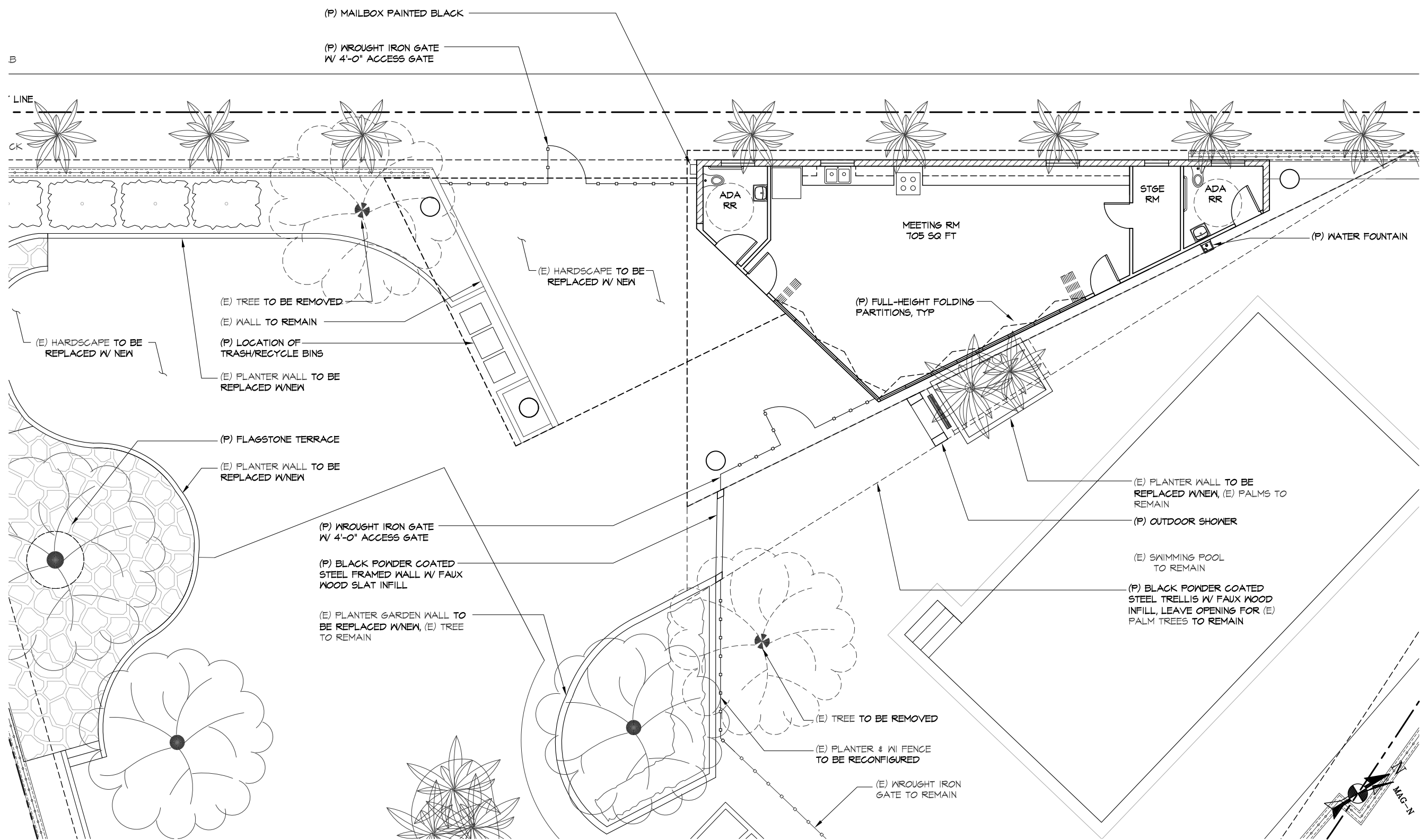
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A	04/17/17	CITY COMMENTS	EA

LIDO SANDS REC AREA  
 4600 LIDO SANDS DRIVE  
 NEWPORT BEACH, CA 92663

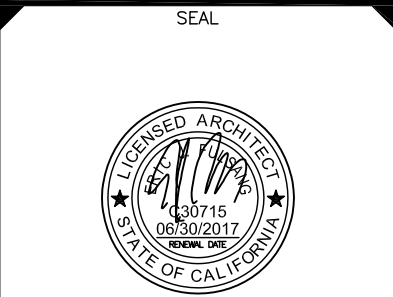
SHEET TITLE  
**PROPOSED OVERALL SITE PLAN**

SHEET NUMBER  
**A-1.1**

# LIDO SANDS DRIVE



**FULSANG**  
**ARCHITECTURE**  
 3471 VIA LIDO, SUITE 202  
 NEWPORT BEACH, CA 92663  
 PHONE: (949) 838-4139



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LIDO SANDS REC AREA  
 4600 LIDO SANDS DRIVE  
 NEWPORT BEACH, CA 92663

SHEET TITLE  
**ENLARGED SITE PLAN**

SHEET NUMBER  
**A-1.2**

SEAL



ISSUED FOR: CITY COMMENTS  
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SUBMITTALS

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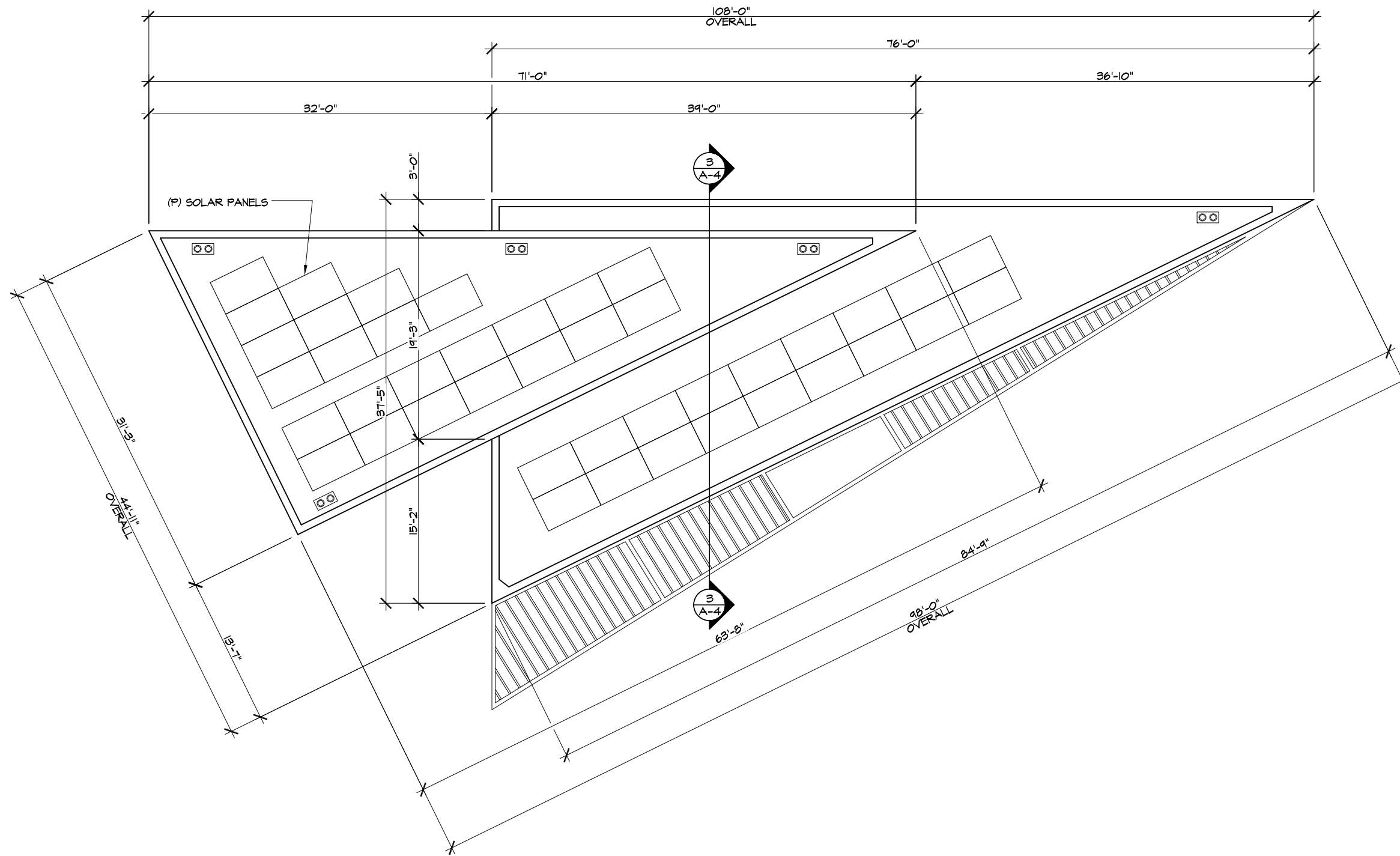
LIDO SANDS REC AREA  
 4600 LIDO SANDS DRIVE  
 NEWPORT BEACH, CA 92663

SHEET TITLE

ROOF PLAN

SHEET NUMBER

**A-2.0**





SEAL



ISSUED FOR: CITY COMMENTS  
ISSUE DATE: 04/17/2017  
PROJECT No. FA160901  
DRAWN BY: EA CHECKED BY: EF

SUBMITTALS

REV.	DATE	DESCRIPTION	BY
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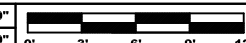
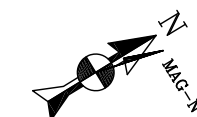
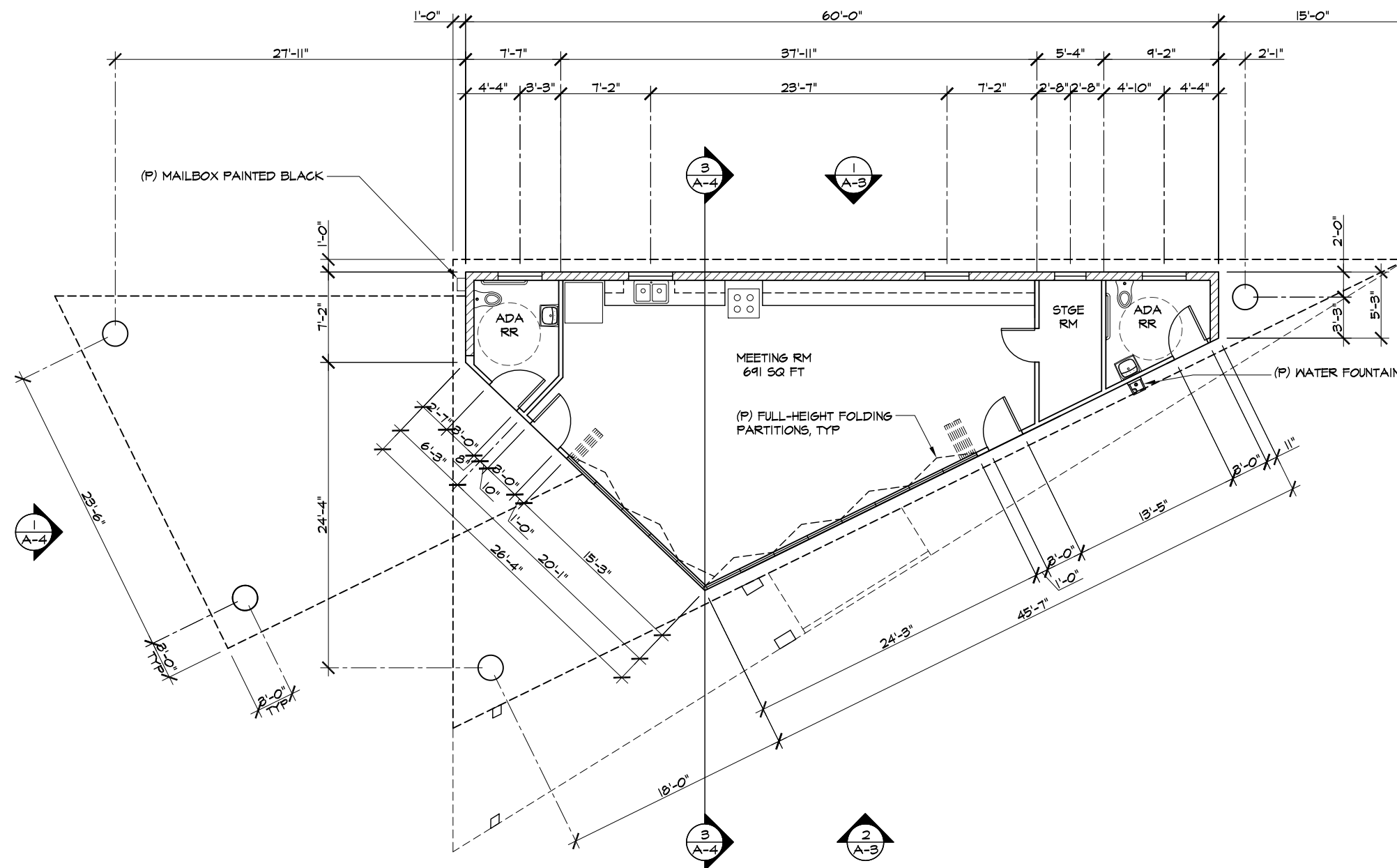
LIDO SANDS REC AREA  
4600 LIDO SANDS DRIVE  
NEWPORT BEACH, CA 92663

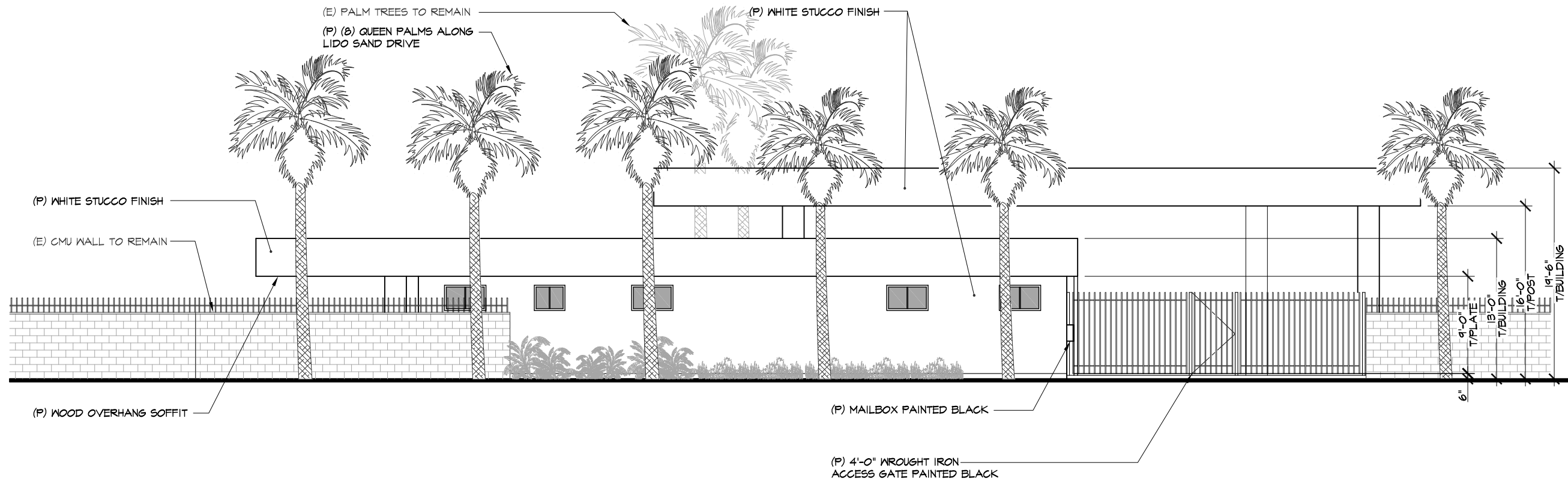
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FLOOR PLAN

SHEET NUMBER

**A-2.1**

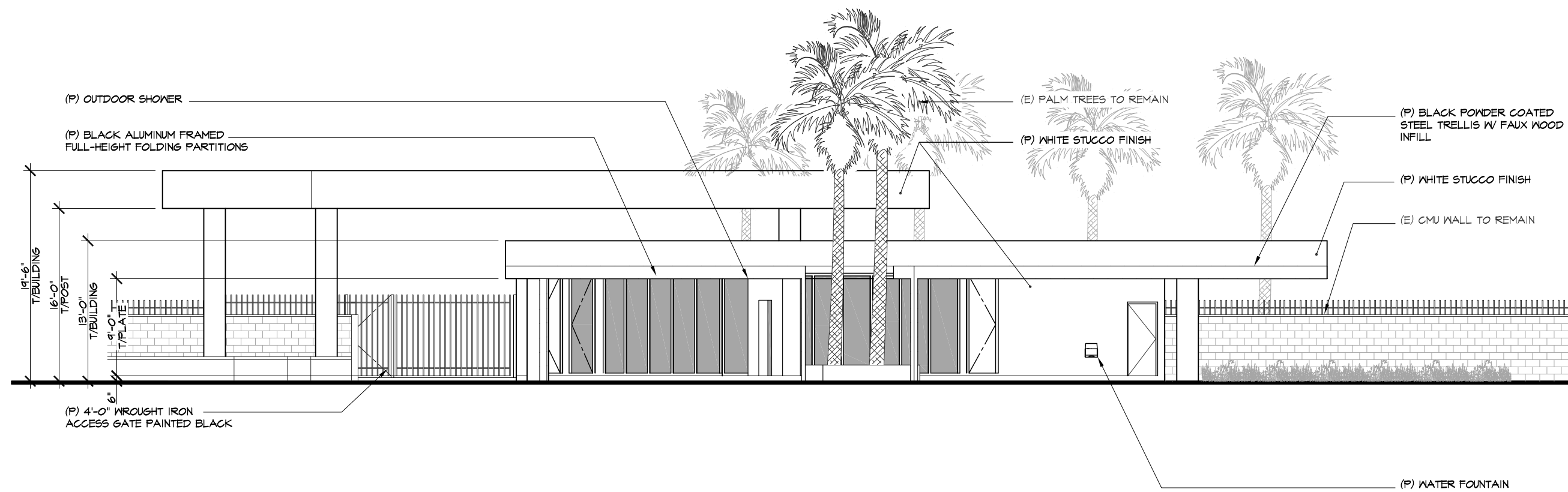




**NORTHWEST ELEVATION**

SCALE @ 11x17: 3/32" = 1'-0"  
SCALE @ 24x36: 3/16" = 1'-0"

**1**



**SOUTHEAST ELEVATION**

SCALE @ 11x17: 3/32" = 1'-0"  
SCALE @ 24x36: 3/16" = 1'-0"

**2**

**FULSANG**  
**ARCHITECTURE**

3471 VIA LIDO, SUITE 202  
NEWPORT BEACH, CA 92663  
PHONE: (949) 838-4139

SEAL



ISSUED FOR: CITY COMMENTS  
ISSUE DATE: 04/17/2017  
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**SUBMITTALS**

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LIDO SANDS REC AREA  
4600 LIDO SANDS DRIVE  
NEWPORT BEACH, CA 92663

SHEET TITLE

**ELEVATIONS**

SHEET NUMBER

**A-3**

(P) HIGH-ROOF, POTENTIAL SOLAR PANEL LOCATION

(P) (8) QUEEN PALMS ALONG LIDO SAND DRIVE

(P) WHITE STUCCO FINISH

(P) MAILBOX PAINTED BLACK

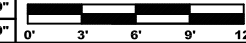
(P) BLACK POWDER COATED STEEL FRAMED WALL W/ FAUX WOOD SLAT INFILL

(P) 4'-0" WROUGHT IRON ACCESS GATE PAINTED BLACK

**SOUTHWEST ELEVATION**

SCALE @ 11x17: 3/32" = 1'-0"

SCALE @ 24x36: 3/16" = 1'-0"



**1**

ISSUED FOR: CITY COMMENTS  
 ISSUE DATE: 04/17/2017  
 PROJECT No. FA160901  
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**SUBMITTALS**

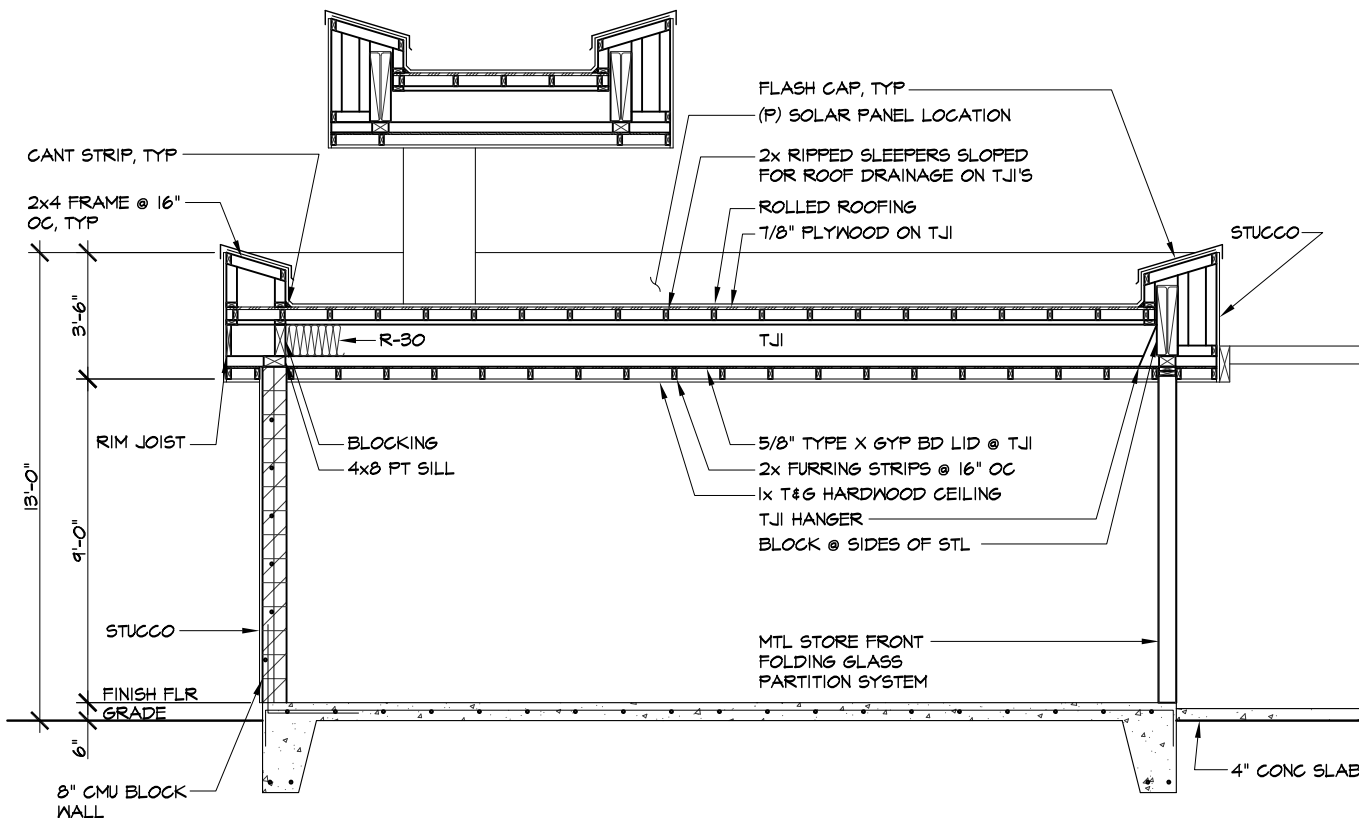
REV.	DATE	DESCRIPTION	BY
0	02/13/17	REVIEW	EA
A	04/17/17	CITY COMMENTS	EA

LIDO SANDS REC AREA  
 4600 LIDO SANDS DRIVE  
 NEWPORT BEACH, CA 92663

SHEET TITLE  
**ELEVATION,  
 ENLARGED DETAIL &  
 SECTION**

SHEET NUMBER

**A-4**



NOTE: FIRE SPRINKLERS TO BE INSTALLED

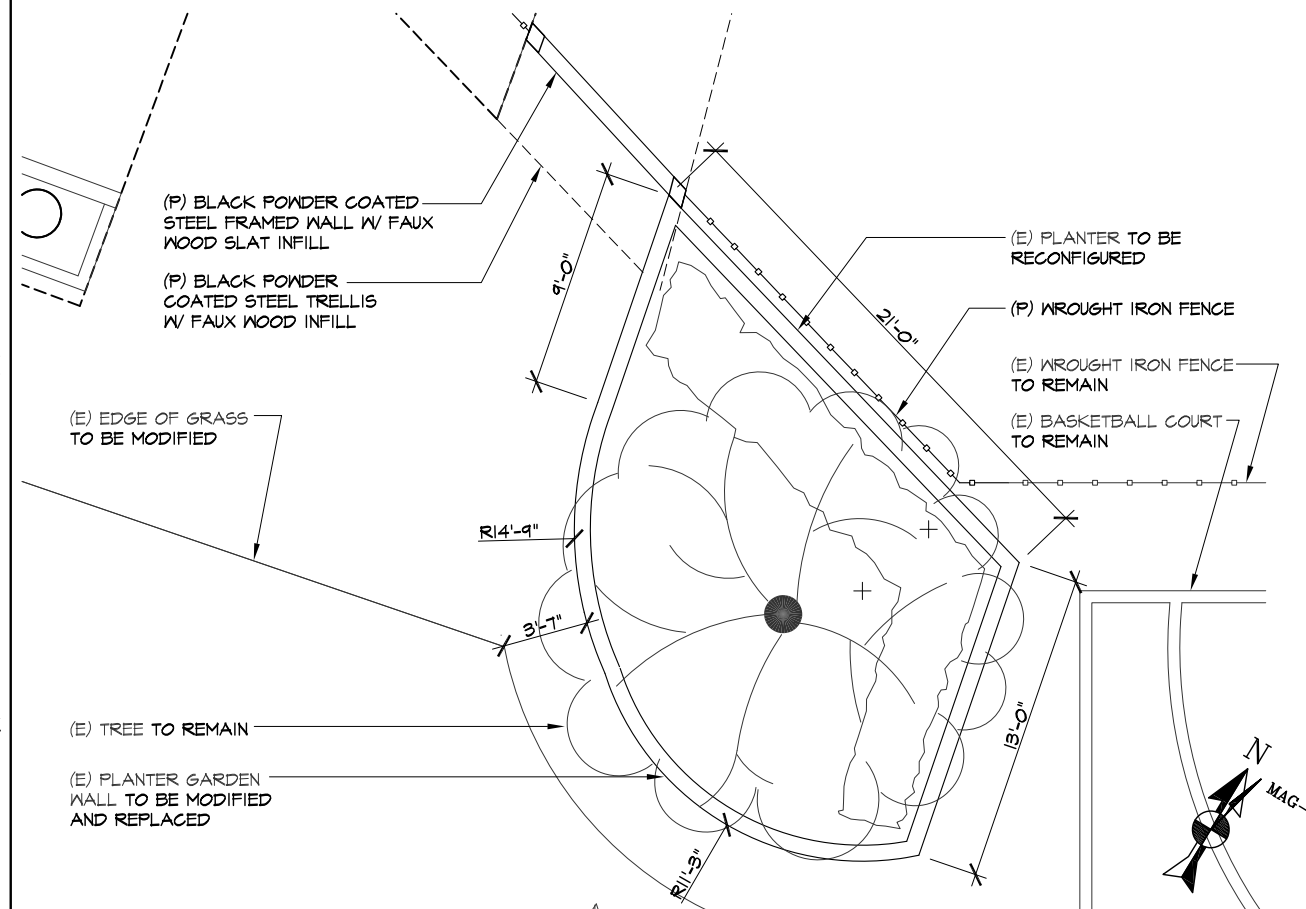
**SECTION**

SCALE @ 11x17: 3/16" = 1'-0"

SCALE @ 24x36: 3/8" = 1'-0"



**3**



**ENLARGED DETAIL**

SCALE @ 11x17: 1/8" = 1'-0"

SCALE @ 24x36: 1/4" = 1'-0"



**2**

# **Attachment No. CD 4**

Tract No. 3162 Approval Documents

## CITY OF NEWPORT BEACH

## CALIFORNIA

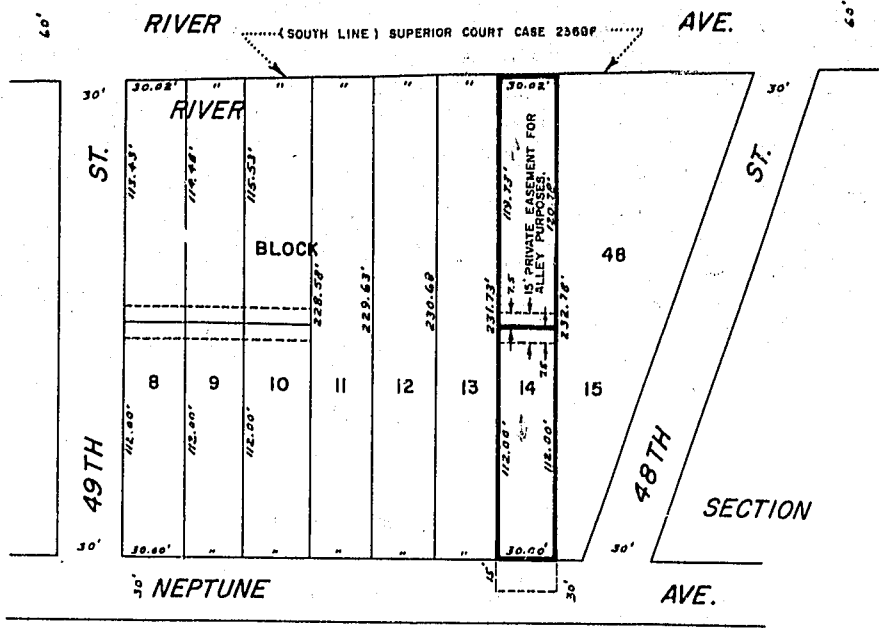
Tract No. 3162 - House numbering of 83 lots to comply with the City of Newport Beach Municipal Code, Sections 8600 to 8603 inclusive, and to conform with Sections 8611.1 and 8614.

<u>Lot No.</u>	<u>House Number</u>	<u>Street Name</u>
1	5600	River Avenue
2	5520	"
3	5516	"
4	5512	"
5	215	Jo Anne Place
6	209	"
7	205	"
8	201	"
9	5408	River Avenue
10	5404	"
11	5400	"
12	5316	"
13	5312	"
14	5308	"
15	5304	"
16	5300	"
17	5220	"
18	5216	"
19	5212	"
20	5208	"
21	5204	"
22	5200	"
23	5112	"
24	5104	"
25	5100	"
26	5020	"
27	5016	"
28	5012	"
29	5008	"
30	5004	"
31	5000	"
32	4916	"
33	4912	"
34	4908	"
35	4904	"
36	4900	"
37	4832	"
38	4828	"
39	4824	"
40	4820	"
41	4816	"
42	4812	"
43	4808	"
44	4804	"
45	4800	"
46	4801	Bruce Avenue
47	4805	"

<u>Lot No.</u>	<u>House Number</u>	<u>Street Name</u>
48	4809	Birch Avenue
49	4815	"
50	4819	"
51	4823	"
52	4827	"
53	4831	"
54	4835	"
55	4901	"
56	4905	"
57	4909	"
58	4915	"
59	4919	"
60	5001	"
61	5005	"
62	5009	"
63	5015	"
64	5019	"
65	5023	"
66	5101	"
67	5105	"
68	5115	"
69	5201	"
70	5205	"
71	5209	"
72	5215	"
73	5219	"
74	5223	"
75	5301	"
76	5305	"
77	5309	"
78	5315	"
79	5319	"
80	5401	"
81	5405	"
82	5409	"
83	4700	River Avenue

TRACT

3162



100' S. P. R. R.

100' R/W

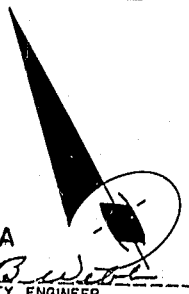
NOTE: THIS IS NOT A SURVEY OF THE LAND BUT IS COMPILED FROM INFORMATION SHOWN ON OFFICIAL RECORDS.

MAP OF SUBDIVISION OF  
 LOT 14  
 BLOCK 48  
 RIVER SECTION  
 NEWPORT BEACH, CALIF.

CITY OF NEWPORT BEACH CALIFORNIA

PREPARED BY THE  
 PLANNING DEPT.  
 J. W. DRAWDY - DIRECTOR.

APPROVED *J. B. Webb*  
 CITY ENGINEER



MARCH 9, 1961

1" = 60'

JOB NO. 2000

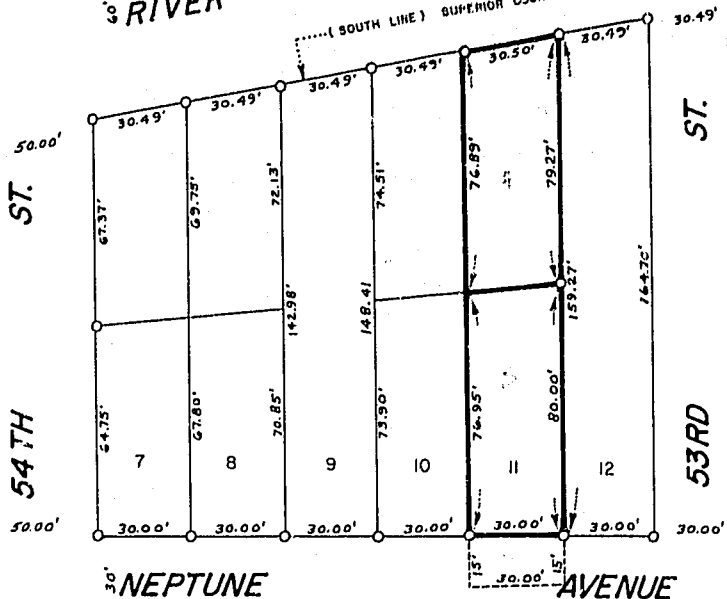
3162

TRACT

AVENUE

RIVER

(SOUTH LINE) SUPERIOR COURT CASE 23686



S. P. R. R. R/W

NOTE: IRON PIPE SHOWN THUS.....O  
THIS IS NOT A SURVEY OF THE LAND  
BUT IS COMPILED FROM INFORMATION  
SHOWN ON OFFICIAL RECORDS.

MAP OF SUBDIVISION OF

LOT II

BLOCK 53

RIVER SECTION  
NEWPORT BEACH, CALIF.

CITY OF NEWPORT BEACH CALIFORNIA

PREPARED BY THE  
PLANNING DEPT.  
J. W. DRANDY - DIRECTOR

APPROVED



*J. W. Drandy*  
CITY ENGINEER

MARCH 10, 1961

1" = 40'

JOB NO. 2001



# CITY OF NEWPORT BEACH

MEMORANDUM: From

November 27, 1956

TO Park, Beach and Recreation  
Commission

The Planning Commission on November 15, 1956 approved tentative map No. 3162 being a portion of Lot D Banning Tract. (Between Coast Hwy. and River Ave. - 47th and 58th Streets).

The developers of this new tract propose a community center to consist of a swimming pool and sanitary appurtenances for the use of the residents of the tract.

We have requested additional copies of this tentative map and when furnished will forward one to your office.

J.W. Drawdy  
Adm. Assistant  
Planning Commission

By

Reply wanted

Reply not necessary

REPORT OF PLANNING COMMISSION:

TO CITY COUNCIL

ON TRACT NO. 3162

LOCATION : A portion of Block D., Banning Tract bounded on the north by the south line of the State Highway, ORA 60A; on the south by the north line of River Ave.; and lying between 46th St. and 58th Street.

SIZE : Approximately 11½ acres, divided into 83 parcels.

ZONE : C-1-B

SUBDIVIDER: Irving C. Jordan 11773 San Vicente Blvd Los Angeles

The tentative map of this tract was reviewed and approved by the Planning Commission on November 15, 1956 subject to the condition that the corner lots be changed to show a width of 50' instead of 40' as shown on the map.

The final map was submitted to the Commission on December 20, 1956 and approved subject to the following conditions:

\*

1. Approval of proposal by subdivider to provide community center within the tract located as shown on map at intersection of Balboa Blvd. and River Avenue to consist of a swimming pool and sanitary appurtenances for use of residents of tract.
2. Waive requirements of Section 9254.31 of Ordinance No. 650 as to lot size to extent that lot sizes in this tract to be generally 4000 square feet per letter of subdivider dated November 15, 1956. Basis for this recommendation is that lot size of 4000 square feet is comparable to lot sizes in that area.
3. Waive requirement of subdivision code to provide sidewalk adjoining River Ave. for reason subdivider is to provide walkway along center interior axis of tract as shown on map.
4. Subdivider to pay City of Newport Beach fee of \$15.00 \* per lot in lieu of requirement for parks under Section 9252.32 of Ordinance No. 650.
5. Subdivider to provide tree planting within tract in accordance with recommendations of Parks, Beaches and Recreation Commission per its letter of December 20, 1956 or any changes mutually agreed upon.

Respectively submitted,

PLANNING COMMISSION

WALTER LONGMOOR,  
Chairman

jwd

1. RECOMMENDS
2. FOR PARK PURPOSES

BASIS OF BEARINGS

The bearing of the centerline of Balboa Boulevard, shown as S. 19° 41' 50" E. on map of R.S. 27-47, was used as a basis of bearings for this map.

TRACT N° 3162

IN THE CITY OF NEWPORT BEACH - ORANGE COUNTY - CALIFORNIA

BEING A SUBDIVISION OF THOSE PORTIONS OF LOT 2 AND THE NORTHEAST ONE-QUARTER OF SEC. 29, TOWNSHIP 6 SOUTH, RANGE 10 WEST, OF THE SAN BERNARDINO MERIDIAN, AS PER THE OFFICIAL PLAT OF SAID LAND FILED IN THE DISTRICT LAND OFFICE, AUGUST 4, 1890 AND OF LOT "D" IN THE BANNING TRACT, AS PER MAP FILED IN CASE N° 6385, SUPERIOR COURT OF LOS ANGELES COUNTY, CALIFORNIA, ALL IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA.

DECEMBER 1956

JACK S. RAUB L.S. 2312

83 LOTS

11.662 ACRES

WE, THE UNDERSIGNED, BEING ALL PARTIES HAVING ANY RECORD TITLE INTEREST IN THE LAND COVERED BY THIS MAP, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF SAID MAP AS SHOWN WITHIN THE BLUE-COLORED BORDER LINE.

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED CLAUDE CAMMERT KNOWN TO ME TO BE VICE PRESIDENT AND H. L. SHELDON, KNOWN TO ME TO BE ASST. SECRETARY OF TITLE INSURANCE AND TRUST COMPANY, A CORPORATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT AND KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED M. ERLES KNOWN TO ME TO BE VICE PRESIDENT AND W. R. HOLLAND, KNOWN TO ME TO BE ASST. TRUST OFFICER OF THE FARMERS AND MERCHANTS NATIONAL BANK OF LOS ANGELES, A CORPORATION, THE CORPORATION THAT EXECUTED THE WITHIN INSTRUMENT AND KNOWN TO ME TO BE THE PERSONS WHO EXECUTED THE WITHIN INSTRUMENT ON BEHALF OF THE CORPORATION THEREIN NAMED AND ACKNOWLEDGED TO ME THAT SUCH CORPORATION EXECUTED THE SAME, AS TRUSTEE.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WILLIAM P. BANNING, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AS THE ATTORNEY-IN-FACT OF EVANGELINE VICTORIA BANNING AND ACKNOWLEDGED TO ME THAT HE SUBSCRIBED THE NAME OF EVANGELINE VICTORIA BANNING THERETO AS PRINCIPAL AND HIS OWN NAME AS ATTORNEY-IN-FACT.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOSEPH P. BANNING AND WILLIAM P. BANNING AS INDIVIDUALS AND AS EXECUTORS OF THE ESTATE OF KATHERINE S. BANNING, DECEASED, KNOWN TO ME TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT, AND ACKNOWLEDGED TO ME THAT THEY EXECUTED THE SAME AS INDIVIDUALS AND AS THE EXECUTORS OF THE ESTATE OF KATHERINE S. BANNING.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MRS. GEORGE GRIFFITH, ALSO KNOWN AS CATHERINE GRIFFITH, KNOWN TO ME TO BE THE PERSON DESCRIBED IN AND WHOSE NAME IS SUBSCRIBED TO THE ANNEXED INSTRUMENT, AND SHE ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

EVANGELINE VICTORIA BANNING ESTATE OF KATHERINE S. BANNING
BY WILLIAM P. BANNING ATTORNEY-IN-FACT BY JOSEPH P. BANNING AND WILLIAM P. BANNING EXECUTORS
GEORGE HUGH BANNING HELEN BANNING WIFE
WITNESS TO THE FOREGOING SIGNATURE WITNESS TO THE FOREGOING SIGNATURE
HANCOCK BANNING, JR. FLORENCE J. BANNING WIFE
WITNESS TO THE FOREGOING SIGNATURE WITNESS TO THE FOREGOING SIGNATURE
JOSEPH P. BANNING, JR. ALICE MORSE BANNING WIFE
WITNESS TO THE FOREGOING SIGNATURE WITNESS TO THE FOREGOING SIGNATURE
WILLIAM P. BANNING JOHN C. MACFARLAND
WITNESS TO THE FOREGOING SIGNATURE WITNESS TO THE FOREGOING SIGNATURE
KATHERINE B. GRAVES ANNE M. BROWN
BY JOHN C. MACFARLAND ATTORNEY-IN-FACT LEON J. BRATAGER
MRS. GEORGE GRIFFITH CATHERINE GRIFFITH
THE FARMERS AND MERCHANTS NATIONAL BANK OF LOS ANGELES, A CORPORATION, TRUSTEE.
VICE PRESIDENT ASST. TRUST OFFICER
TITLE INSURANCE AND TRUST COMPANY, A CORPORATION
VICE PRESIDENT ASST. SECRETARY

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED WILLARD F. CURTIS KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED KATHERINE B. GRAVES KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT SHE EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LEON J. BRATAGER KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE SAME.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED LEON J. BRATAGER, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AS A WITNESS THERETO, WHO BEING BY ME DULY SWORN DEPOSED AND SAID, THAT HE RESIDES IN THE CITY OF WILMINGTON, STATE OF CALIFORNIA; THAT HE WAS PRESENT AND SAW GEORGE HUGH BANNING AND HELEN BANNING, HANCOCK BANNING, JR. AND FLORENCE J. BANNING, JOSEPH P. BANNING, JR. AND ALICE MORSE BANNING, WILLIAM P. BANNING AND JOHN C. MACFARLAND PERSONALLY KNOWN BY HIM TO BE THE PERSONS WHOSE NAMES ARE SUBSCRIBED TO THE WITHIN INSTRUMENT; EXECUTED THE SAME; AND THAT AFFIANT SUBSCRIBED HIS NAME THERETO AS A WITNESS THERETO TO SAID EXECUTION.

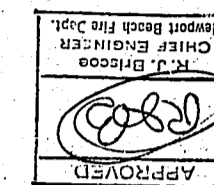
WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

STATE OF CALIFORNIA } ss. COUNTY OF LOS ANGELES }

ON THIS DAY OF 1956, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED JOHN C. MACFARLAND, KNOWN TO ME TO BE THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN INSTRUMENT AS ATTORNEY-IN-FACT OF ANNE M. BROWN AND ACKNOWLEDGED TO ME THAT HE SUBSCRIBED THE NAME OF ANNE M. BROWN THERETO AS PRINCIPAL AND HIS OWN NAME AS ATTORNEY-IN-FACT.

WITNESS MY HAND AND OFFICIAL SEAL NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE

Set 2" iron pipe bearing brass disk stamped "L.S. 2312" at all tract corners unless otherwise noted. Set 1" iron pipe bearing brass disk stamped "L.S. 2312" at all lot corners, unless otherwise noted. Set spike and tin at all intersections of street centerlines, points of control and centerline terminations. All monuments shall occupy positions as indicated prior to acceptance of improvements. Found 2" iron pipe bearing brass disk stamped "L.S. 2312" at points marked • unless otherwise noted.



I, JACK S. RAUB, HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR (N° 2312) OF THE STATE OF CALIFORNIA, AND THAT THIS MAP, CONSISTING OF THREE (3) SHEETS, CORRECTLY REPRESENTS A TRUE AND COMPLETE SURVEY MADE UNDER MY DIRECTION IN DECEMBER, 1956; THAT THE MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED; OR WILL BE SET IN SUCH POSITIONS AND AT SUCH TIMES AS AGREED UPON WITH THE CITY ENGINEER, AND THAT SAID MONUMENTS WILL BE SUFFICIENT TO ENABLE THE SURVEY TO BE RE-TRACED.

LICENSED LAND SURVEYOR

STATE OF CALIFORNIA } ss. CITY OF NEWPORT BEACH } ss. COUNTY OF ORANGE }

I, MARGERY SCHROEDER, CITY CLERK OF SAID CITY OF NEWPORT BEACH, DO HEREBY CERTIFY THAT THIS MAP WAS PRESENTED FOR APPROVAL TO THE CITY COUNCIL OF SAID CITY OF NEWPORT BEACH AT A REGULAR MEETING THEREOF HELD ON THE DAY OF 1956, AND THEREUPON SAID COUNCIL DID, BY AN ORDER DULY PASSED AND ENTERED, APPROVE SAID MAP AND DID ACCEPT ON BEHALF OF THE PUBLIC THE OFFER OF DEDICATION OF LOT "B" AS A PUBLIC HIGHWAY.

DATED THIS DAY OF 1956 CITY CLERK OF CITY OF NEWPORT BEACH

STATE OF CALIFORNIA } ss. COUNTY OF ORANGE }

I, L. H. ECKEL, COUNTY AUDITOR OF SAID COUNTY OF ORANGE, DO HEREBY CERTIFY THAT, ACCORDING TO THE RECORDS OF MY OFFICE THERE ARE NO LIENS AGAINST THE LAND SHOWN ON THIS MAP OR ANY PART THEREOF FOR UNPAID STATE, COUNTY OR CITY TAXES OR SPECIAL ASSESSMENTS COLLECTED AS TAXES.

DATED THIS DAY OF 1956 COUNTY AUDITOR

BY DEPUTY

STATE OF CALIFORNIA } ss. COUNTY OF ORANGE }

I, L. B. WALLACE, COUNTY CLERK AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS, DO HEREBY CERTIFY TO THE COUNTY RECORDER OF ORANGE COUNTY THAT THE PROVISIONS OF THE SUBDIVISION MAP ACT HAVE BEEN COMPLIED WITH REGARDING DEPOSITS TO SECURE THE PAYMENT OF TAXES AND ASSESSMENTS ON THE LAND COVERED BY THIS MAP.

DATED THIS DAY OF 1956 COUNTY CLERK AND EX-OFFICIO CLERK OF THE BOARD OF SUPERVISORS

BY DEPUTY

STATE OF CALIFORNIA } ss. COUNTY OF ORANGE }

I, J. B. WEBB, CITY ENGINEER OF THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, CALIFORNIA, DO HEREBY CERTIFY THAT I HAVE EXAMINED THIS MAP AND HAVE FOUND IT TO BE SUBSTANTIALLY THE SAME AS THE TENTATIVE MAP AS FILED, AMENDED AND APPROVED BY THE CITY PLANNING COMMISSION; THAT ALL PROVISIONS OF THE SUBDIVISION MAP ACT AND CITY SUBDIVISION REGULATIONS HAVE BEEN COMPLIED WITH, AND I AM SATISFIED SAID MAP IS TECHNICALLY CORRECT.

DATED THIS DAY OF 1956 CITY ENGINEER CITY OF NEWPORT BEACH

Track 3162 10f3

# TRACT N° 3162

IN THE CITY OF NEWPORT BEACH - ORANGE COUNTY - CALIFORNIA

DECEMBER 1956

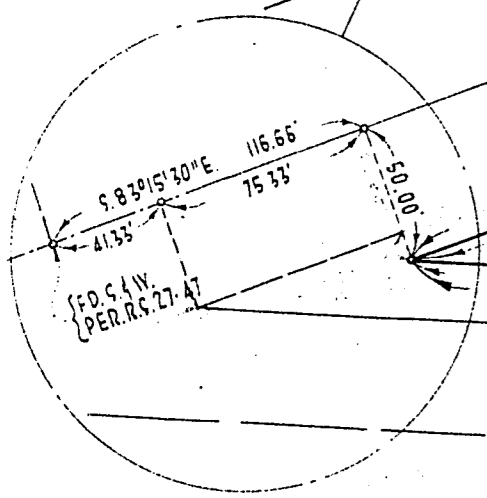
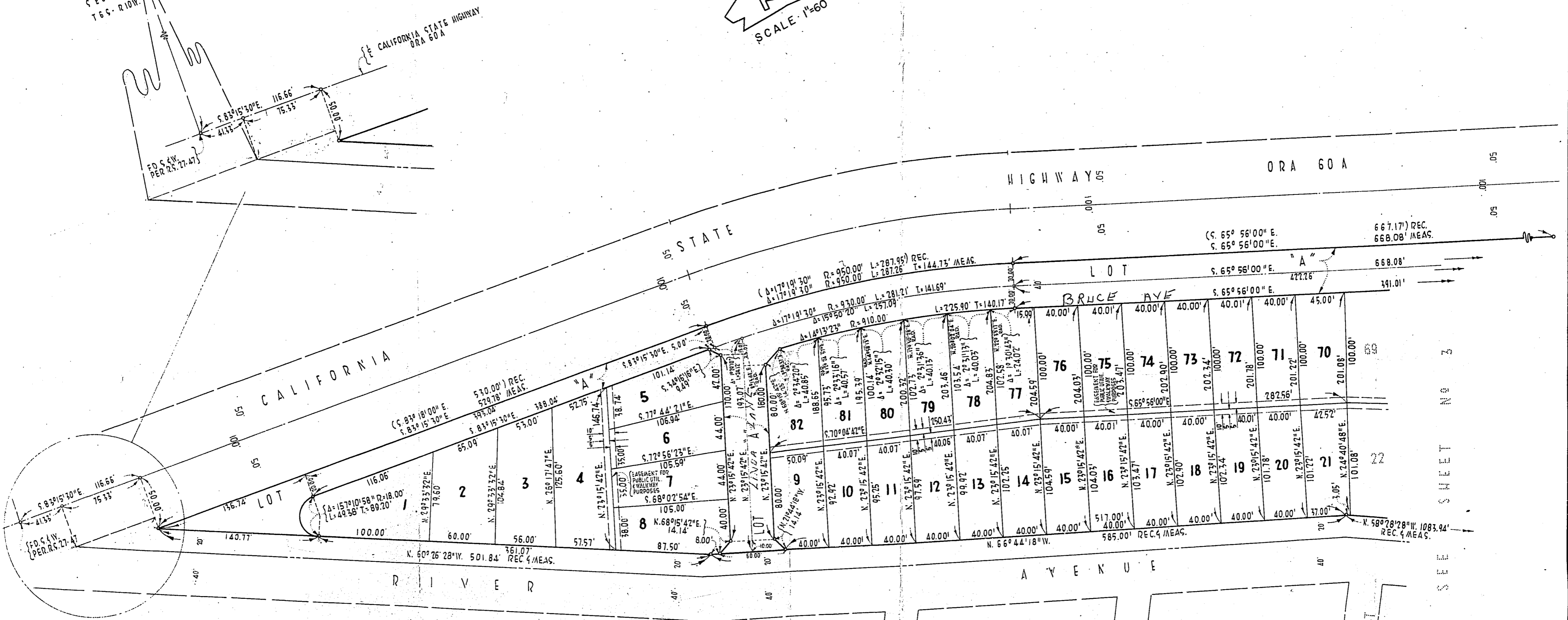
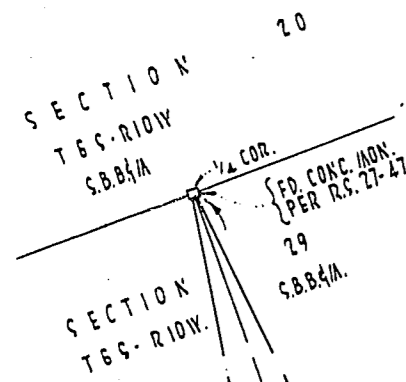
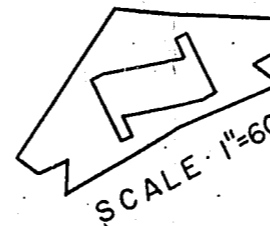
83 LOTS

11.662 Ac.

JACK S. RAUB L.S. 2312

NOTE

For basis of bearings and monument note, see sheet 1.



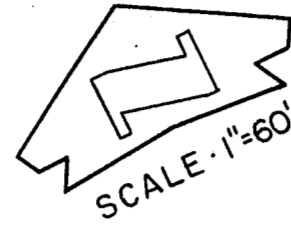
# TRACT N° 3162

IN THE CITY OF NEWPORT BEACH - ORANGE COUNTY - CALIFORNIA

DECEMBER 1956

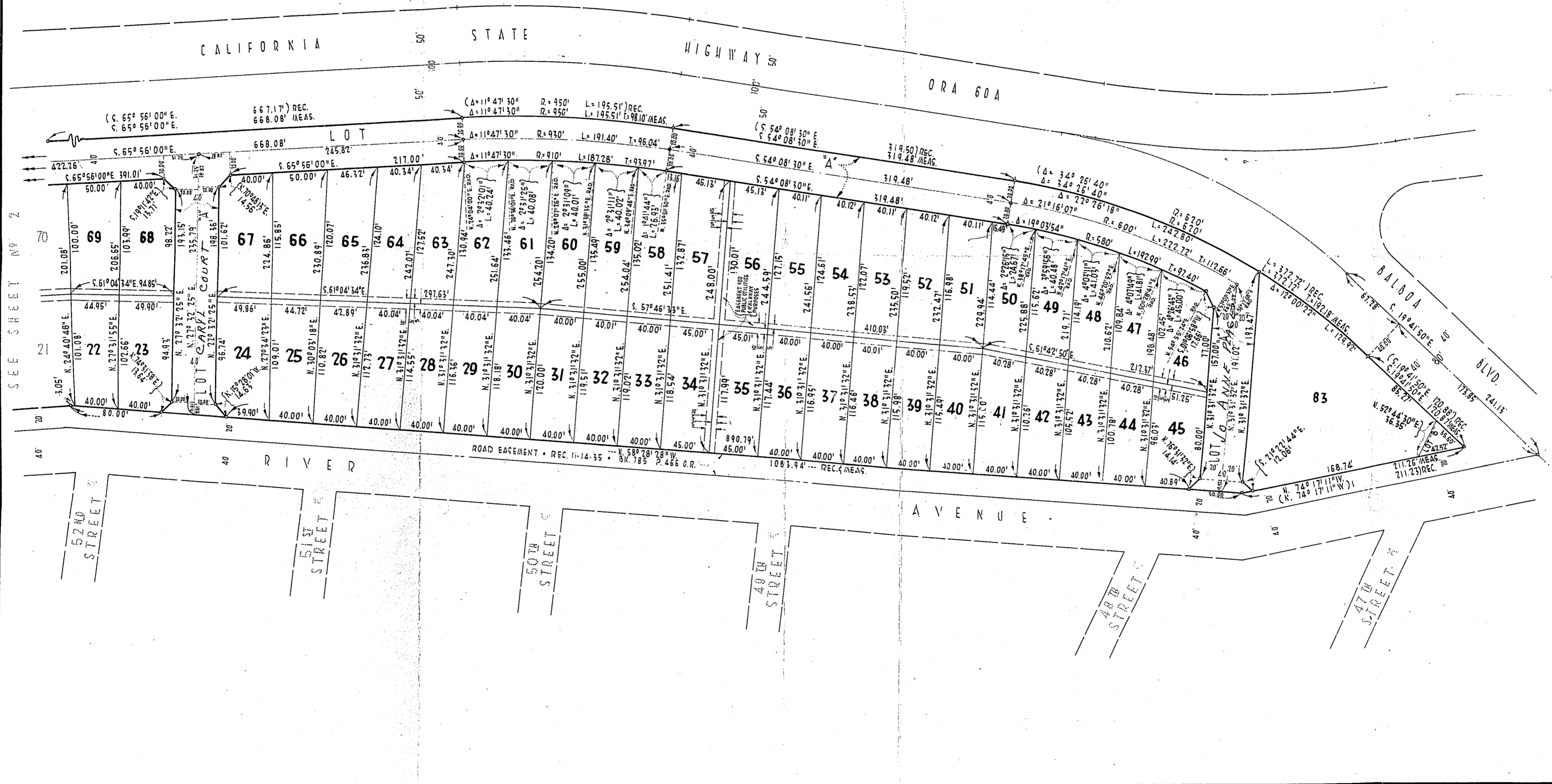
83 LOTS - 11.662 Ac.

JACK S. RAUB L.S. 2312



NOTE -

For basis of bearings and monument note, see sheet 1.



SEE SHEET N° 2

3023



## **OPERATOR LICENSE APPROVAL LETTER**

POLICE DEPARTMENT  
870 SANTA BARBARA DRIVE  
NEWPORT BEACH, CA 92660  
(949) 644-3681 FAX (949) 644-3794  
[www.nbpd.org](http://www.nbpd.org)

### **VIA EMAIL**

May 31, 2017

Edwards Theatres, Inc.  
Attn: Bruce Evans  
300 Newport Center Drive  
Newport Beach, CA 92660  
bevans@ssjlaw.com

<b>Application No.</b>	<b>Operator License No. OL2016-002 (PA2016-020)</b>
<b>Owner/Applicant</b>	<b>Edwards Theaters Inc.</b>
<b>Location/Business Name</b>	<b>Big Newport 6 Theater</b>
<b>Site Address</b>	<b>210 and 300 Newport Center Drive</b>
<b>LEGAL DESCRIPTION</b>	<b>Parcel 1 and Parcel 2 of Lot Line Adjustment No. LL 88-6</b>

On **May 31, 2017**, the Chief of Police approved the following: A request for the issuance of an Operator License pursuant to Chapter 5.25 of the Municipal Code for an existing food service, eating and drinking establishment with late hours, a Type 47 (On-Sale General - Eating Place) Alcoholic Beverage Control (ABC) license. The Operator License is required due to the issuance of a new conditional use permit for the operation.

### **REQUIRED FINDINGS**

The Chief of Police has made the following findings as required by NBMC 5.25.050(B):

#### **Finding:**

- A. *The business or enterprise is located in a zone permitting the proposed use under Title 20 of the NBMC, and is subject to such use permits as may be required.*

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

1. The subject property is located within the Office Regional Commercial (OR) Zoning District, which is intended to provide for a wide variety of office uses to serve local and regional markets with accessory commercial including entertainment uses. The existing theater, with daily movie screenings is consistent with these land use designations. The proposed alcohol and food service is accessory to the primary theater use. The Zoning Code requires a conditional use permit (CUP) for food service uses with late hours.

2. On April 6, 2017, the Planning Commission approved Conditional Use Permit No. UP2016-003, to allow the addition of the Type 47 (On-Sale General) ABC License at the existing Big Newport 6 Regal movie Theater. The hours of operation will remain from 10:00 a.m. through 1:00 a.m., daily and the number of seats (1,134) will not change. The only physical changes to the site are related to the alcohol service.

Finding:

*B. In the case of a business or enterprise offering "Entertainment," as defined, the premises meets all of the criteria in Chapter 5.28.040.B.2-7.*

Facts in Support of Finding:

1. The movie theater does not offer entertainment as defined in Municipal Code Chapter 5.28 (Live Entertainment Establishments).

Finding:

*C. The proposed site plan and improvements are consistent with the use and the plan of operations.*

Facts in Support of Finding:

1. The subject properties and the existing buildings are designed and operated as a movie theater with accessory food and alcohol sales.
2. The hours of operation are limited to between 6:00 a.m. and 12:30 a.m., Monday through Thursday, and 6:00 a.m. to 1:00 a.m., Friday through Sunday. Patrons are required to vacate the premise no later than 30 minutes from those designated closing times.

Finding:

*D. The plan of operations as proposed, with attached conditions in place, is adequate in light of the neighborhood in which the operation is located and supports the public health, safety, and welfare of the community.*

Facts in Support of Finding:

1. The business will be required to comply with the hours of operation as specified in the conditions of approval for the Operator License.
2. The Operator License has been conditioned to ensure the location is maintained and operated as an eating and drinking establishment and not a bar, tavern, or nightclub.
3. The plan of operations, along with the conditions of approval provided below and the conditions of approval placed on Use Permit No. UP2016-003 (PA2016-020), is adequate in light of the establishment's location within Fashion Island to ensure the public health, safety, and welfare of the community.

4. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, curbs, gutters, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.

#### **CONDITIONS OF APPROVAL**

In no case shall the conditions be less restrictive than those required by any applicable use permit.

1. The approval is for the operation of Edwards Theater Inc, Big Newport 6, a food service, eating and drinking theater establishment with late hours and on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the California Department of Alcoholic Beverage Control shall be a Type 47 (On-Sale General – Eating Place). The hours of operation are 10:00 a.m. until 1:00 a.m., daily.
2. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations approved pursuant to Conditional Use Permit No. UP2016-003.
3. Under the authority of UP2016-003, Alcohol beverage sales shall cease at 12:00 a.m. daily for the first year. As determined by the Community Development Director that there have been no issues related to the alcohol sales during the first year, sales may be extended to 1:00 a.m., daily. This Operator License will mirror the Conditional Use Permit and will not require update.
4. The alcoholic beverage sales concessions shall be limited to a maximum of two concession areas, one in each theater building and shall be used in conjunction with the related food service concession. Any change in the operation of alcoholic beverage service or increase in the counter space devoted to alcohol sales shall be subject to the approval of an amendment to this Use Permit issued by the Planning Commission.
5. All sales or service of alcoholic beverages in the licensed premises shall be made only from the concession bars or servers.
6. During the period of time from the initiation of seating until the completion of the feature presentation, ambient lighting in the auditoriums shall remain at a level sufficient enough to allow a reasonable person to observe patrons who may be consuming alcoholic beverages.
7. Food service from the regular menu must be made available to patrons during all open hours.
8. There shall be no exterior advertising or signs of any kind or type, including advertising direct to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
9. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The exemption provided in NBMC Subsection 10.26.035(L) shall not be



applicable to noise generated on the subject property.

10. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
11. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
12. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
13. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
14. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
15. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
16. There shall be no dancing allowed on the premises.
17. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
18. Approval does not permit the premises to operate as a "bar, tavern, cocktail lounge or nightclub": as defined by the Newport Beach Municipal Code.
19. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

20. All sales or service of alcoholic beverages in the licensed premises shall be made only from the areas specifically licensed by the Department of Alcoholic Beverage Control, or by trained servers within the general spectator areas. The alcohol beverages must be personally delivered to the patron by the employee who took the order.
21. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person during a single transaction. The delivery of alcoholic beverages to patrons inside the auditoriums shall be limited to two (2) per patron per screening.
22. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol. Orders from patrons seated in theater seats must be made to the server serving that area and the alcoholic beverages ordered must be personally delivered to the patron by the server who took the order.
23. Servers shall not carry a supply of unordered alcoholic beverages. "Hawkers" shall be prohibited.
24. Food service from the regular menu must be made available to patrons during all hours of alcohol service.
25. There shall be no reduced price alcoholic beverage promotions.
26. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
27. The Operator shall implement the security plan approved by the Police Department and found in Attachment PD 3. Any changes to this security plan are required to be reviewed and approved by the Police Department. Failure to implement the approved security plan could jeopardize the Operator License.
28. A copy of this operator license shall be kept on the premises at all times and shall be made available to any member of the Police Department upon request.
29. The business shall comply with Title 20 (Zoning Code) and any other applicable provisions of the Newport Beach Municipal Code.
30. This Operator License may be suspended, modified, or revoked by the Chief of Police should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
31. Operator License No. OL2016-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.

32. Should the property be sold or otherwise come under different ownership, a new Operator License shall be required.
33. 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 Big Newport 6 Theater including, but not limited to, the **Operator License No. OL2016-002 and Conditional Use Permit No. UP2016-003 (PA2016-020)**. 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.

#### **OPERATOR LICENSE NONTRANSFERABLE**

No operator license issued pursuant to this chapter shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license, and such license shall be, thereafter, null and void. A license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. License shall be valid only for the exact location specified in the license.

#### **PUBLIC NOTICE**

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 21 days prior to the decision date, consistent with the provisions of the Municipal Code.

#### **APPEAL PERIOD**

The determination of the Chief of Police to deny or to place conditions upon the approval of an operator license shall be appealable by the applicant or any interested party. Such appeal shall be made in writing to the City Manager, within fifteen (15) days of the postmark date of the Chief of Police's notice of decision. For additional information on filing an appeal, contact the Planning Department at (949) 644-3200.

#### **REVOCATION, SUSPENSION OR MODIFICATION OF LICENSE FOR CAUSE**

The Chief of Police may commence a process to revoke, suspend or modify an operator license issued under the provisions of this chapter should there be reasonable suspicion of any of the following:

- A. The licensee has ceased to meet the requirements for issuance of license;
- B. The applicant gave materially false, fraudulent or misleading information within the application;
- C. Impacts emanating from the establishment for which the license was issued has substantially interfered with the peace and quiet of the neighborhood;
- D. The licensed business or activity has operated in violation of any of the requirements of this chapter, the license as issued, or any condition thereof. The Chief of Police shall notify the operator of the commencement of such revocation, suspension or modification process and shall conduct an investigation to determine if, and to what degree, one or more of the foregoing has occurred. Upon completion of the investigation, the Chief of Police may add, delete or modify the license conditions. The Chief of Police shall notify the applicant regarding the determination of the operator license, on the outcome of the investigation, and the action taken. The applicant or any interested party may appeal a determination or an added or modified condition of approval to City Manager in the manner set forth in Section 5.25.050(C) and (D).

By:   
\_\_\_\_\_  
Jon T. Lewis  
CHIEF OF POLICE

Attachments:

- PD 1 Planning Commission Resolution No. 2053
- PD 2 Project Description and Narrative Justification
- PD 3 Security Plan

**cc:**

Trail Properties, LLC  
PO Box 9888  
Newport Beach, CA 92658

# **Attachment No. PD 1**

Planning Commission Resolution No. 2053

## RESOLUTION NO. 2053

### A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH SUPERSEDING USE PERMIT NO. UP1527 AND APPROVING USE PERMIT NO. UP 2016-003 FOR THE ADDITION OF A TYPE 47 (ON-SALE GENERAL) TO AN EXISTING MOVIE THEATER LOCATED AT 210 AND 300 NEWPORT CENTER DRIVE (PA2016-020)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Edwards Theatres, Inc. ("Applicant"), with respect to property located at 210 and 300 Newport Center Drive, and legally described as Parcel 1 and Parcel 2 of Lot Line Adjustment No. LL 88-6 recorded requesting approval of a Conditional Use Permit.
2. The applicant proposes a Type 47 (On-Sale General) accessory use to the existing Big Newport 6 Movie Theater. The hours of operation will remain from 10:00 a.m. until 1:00 a.m., daily. Implementation would include minor physical changes to the existing theater to accommodate the alcohol service in conjunction with food service. Pursuant to Newport Beach Municipal Code ("NBMC") Chapter 5.25, the operation as described requires the owner/operator to file for an Operator License approved by the Police Department. An Operator License application is being reviewed concurrently by the Chief of Police, pursuant to NBMC Chapter 5.25
3. The subject property is located within the Office Regional Commercial (OR) Zoning District and the General Plan Land Use Element category is Regional Commercial Office (CO-R).
4. The subject property is not located within the coastal zone.
5. The existing Big Newport 6 Movie Theater operates pursuant to Use Permit No. UP1527, the existing Conditions of Approval for Use Permit No. UP1527 have been consolidated and transferred into this amended Use Permit No. UP2016-003.
6. A public hearing was held on April 6, 2017, in the Council Chambers located at 100 Civic Center Drive, Newport Beach at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code

of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The proposed application involves the addition of on-site alcoholic beverage service within an existing theater with nominal physical changes to the existing theater or property.

### SECTION 3. REQUIRED FINDINGS.

#### **Alcohol Sales**

In accordance with NBMC Subsection 20.48.030(3) (Alcohol Sales) and NBMC Subsection 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code ("NBMC"), the following findings and facts in support of the findings are set forth:

#### Finding

- A. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

#### Facts in Support of Finding

1. The purpose and intent of NBMC Section 20.48.030 (Alcohol Sales) is to preserve a healthy environment for residents and businesses by establishing a set of consistent standards for the safe operation of alcohol sales establishments. The service of alcoholic beverages is intended for the convenience of patrons attending the movie theater. Operational conditions of approval recommended by the Police Department relative to the sale of beer and wine will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
2. Due to the high concentration of commercial land uses, the calls for service, crime rate, and number of arrests are greater than adjacent reporting districts containing residential uses. This area of Newport Center, across from Fashion Island does not abut sensitive land uses and is separated from other uses by parking lots, roadways and other commercial uses. The existing theater is not located in close proximity to residential districts, day care centers, park and recreation facilities, places of religious assembly or schools. The Police Department has reviewed the Use Permit application and recommended conditions of approval to ensure that the design and security of the movie theater are properly addressed.
3. Several restaurants and hotels in Newport Center and Fashion Island provide alcohol service as an amenity to customers. The number of alcohol licenses and the type of alcohol service proposed is typical and expected to be found at a regional mall area.
4. The movie theater does not have any current objectionable conditions.

5. The provision of food service and alcoholic beverages sales will not substantially change the operational characteristics of the movie theater.
6. The existing movie theater is an allowed use in the Office Regional Commercial (OR) Zoning District. The on-site consumption of alcoholic beverages provides a public convenience by allowing the sale of alcoholic beverages in conjunction with food service and other concession items offered for sale.

Finding

*B. The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

1. The General Plan Land Use Element designates the subject property as Regional Commercial Office (CO-R), which is intended to provide for a wide variety of office uses to serve local and regional markets with accessory commercial including entertainment uses. The existing theater is consistent with the CO-R land use designation as it offers daily movie shows that serve local and citywide residents and visitors. The addition of alcohol service is accessory to the existing theater use and is consistent with the General Plan.
2. The existing movie theater is consistent with the General Plan Anomaly 37, which limits the Theater to 2,050 movie seats. The Theater currently provides 1,134 seats.
3. The subject property is not part of a specific plan area.

Finding

*C. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*

Facts in Support of Finding

1. The zoning designation for the subject property is Office Regional Commercial (OR), which is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve citywide or regional needs. The existing theater is consistent with the OR Zoning District as it offers daily movie shows that serve local and citywide residents and visitors. The addition of alcohol service is accessory to the existing theater and is compatible, as conditioned, with the land uses allowed within the OR Zoning District and surrounding neighborhood, such as office, retail, restaurant and various service uses. Alcohol sales in conjunction with food service and late hours is an allowed use upon the approval of a CUP.
2. The existing theater operates pursuant to Use Permit No. UP1527. This CUP is for the addition of a Type 47 (on-sale general for bona fide public eating-place) ABC License as



an accessory use to the existing theater. The existing Conditions of Approval for Use Permit No. UP1527 have been consolidated and transferred to this Use Permit.

3. Sufficient parking is provided per the Conditions of Approval and the parking requirement does not change with the addition of the Type 47 ABC license.
4. The proposed project is consistent with the provisions within Section 20.48.030 (Alcohol Sales) of the Zoning Code.
5. The project has been conditioned to limit objectionable conditions resulting from the service of alcohol at movie shows and is required to comply with all applicable Municipal Code regulations.
6. Due to the alcohol sales and late hours of operation, approval of an Operator License by the Newport Beach Police Department is required, and Operator License No. OL2016-002 is being reviewed concurrently by the Chief of Police pursuant to NBMC Chapter 5.25.

#### Finding

- D. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

#### Facts in Support of Finding

1. A movie theater has operated at this location since 1969 and the use has not proven detrimental to the area. The movie theater has provided various food concessions however; they will expand their menu to provide a full food service menu with the alcohol service.
2. The service of alcohol will remain restricted to between the hours of 10:00 a.m. and 1:00 a.m., daily, consistent with the existing use permit for the theater. Alcoholic beverage service is conditioned to be served with a full food service menu and is limited to a maximum of two beverages during a single transaction and two per patron per screening.
3. The movie theater is located across the street from Fashion Island in a regional commercial/office area near Newport Center. Alcohol sales will be available at the main concession stands in each of the lobbies in the two theater buildings. Based on demand, the theater may also provide the option to order food and alcohol from a server within all six of the theater auditoriums.
4. No residential zoning districts, or other incompatible land uses, are located within the immediate vicinity of the theater. The closest residential uses are located far enough from the theater to avoid any potential land use conflicts from patrons leaving the theater.
5. The operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages, including the preparation and implementation of a

security plan reviewed and approved by the Police Department, will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. The project has been conditioned to ensure that the business remains a theater and does not become a bar, club, or tavern.

6. The Theater must comply with the requirements of the California Building Code, Orange County Health Department, and Alcoholic Beverage Control Department to ensure the safety and welfare of customers and employees within the establishment.

#### Finding

- E. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*

#### Facts in Support of Finding

1. The project site is located within an existing theater building. The lobbies and seating areas are designed for food and beverage service.
2. Adequate public and emergency vehicle access, public services, and utilities area provided within the existing infrastructure. There are existing courtyards and interior walkways that connect all lobbies and auditoriums. The office area is surrounded by parking areas on all sides except for the one street frontage along Newport Center Drive, across from Fashion Island.

#### Finding

- F. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

#### Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment. The operator is required to implement a security plan that has been approved by the Police Department.
2. The proposed alcohol service is provided as a public convenience to movie theater patrons. The service of alcoholic beverages will provide an economic opportunity to maintain a successful business at this location in a way which best serves the quality of life for the surrounding community.

3. The hours of operation will be limited to between 10:00 a.m. and 1:00 a.m., daily.
4. The proposed alcoholic beverage service will not change the principal movie theater use.
5. Sufficient parking is provided on-site and through existing off-site parking agreements. The addition of alcohol service will not change the existing parking.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves Use Permit No. UP2016-003, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Use Permit No. UP1527 and all Amendments. Upon vesting of the rights authorized by this Use Permit No. UP2016-003, Use Permit No. 1527 and all Amendments shall become null and void.

**PASSED, APPROVED, AND ADOPTED THIS 6<sup>th</sup> DAY OF APRIL, 2017.**

AYES: Dunlap, Hillgren, Koetting, Lawler, Weigand, Zak

NOES: None

ABSTAIN: None

ABSENT: Kramer

BY:   
Kory Kramer, Chairman

BY:   
Peter Zak, Secretary

**EXHIBIT "A"****CONDITIONS OF APPROVAL****PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Use Permit No. UP2016-003 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Subsection 20.54.060(A)(1), unless an extension is otherwise granted.
3. Should the Type 47 alcohol license be transferred, any future license holders, operator or assignees shall be notified of the conditions of this approval by either the current licensee, business operator, or the leasing company. Future licensees, operators or assignees shall submit, within 30 days of transfer of the alcohol license, a letter to the Planning Division acknowledging their receipt and acceptance of the limitations, restrictions and conditions of approval of this use permit.
4. The approval is only for the sale and service of alcoholic beverages incidental to the theater use. The type of alcoholic beverage license issued by the California Department of Alcoholic Beverage Control shall be a Type 47 (On-sale General) in conjunction with the movie theater as the principal use of the facility.
5. Concurrently with this application, an Operator License is being reviewed by the Chief of Police. Implementation of this use permit shall not commence prior to final approval of the Operator License.
6. The alcoholic beverage sales concessions shall be limited to a maximum of two concession areas, one in each theater building and shall be used in conjunction with the related food service concession. Any change in the operation of alcoholic beverage service or increase in the counter space devoted to alcohol sales shall be subject to the approval of an amendment to this Use Permit issued by the Planning Commission.
7. All sales or service of alcoholic beverages in the licensed premises shall be made only from the concession bars or servers.
8. During the period of time from the initiation of seating until the completion of the feature presentation, ambient lighting in the auditoriums shall remain at a level sufficient enough to allow a reasonable person to observe patrons who may be consuming alcoholic beverages.
9. Food service from the regular menu must be made available to patrons during all open hours.

10. There shall be no exterior advertising or signs of any kind or type, including advertising direct to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs, which are clearly visible to the exterior, shall constitute a violation of this condition.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
13. This Use Permit may be modified or revoked by the Planning Commission if determined that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. A minimum of 250 parking spaces shall be provided for the daytime matinees (Monday through Friday, before 5:30 p.m.) for both theaters at 210 and 300 Newport Center Drive.
15. A minimum of one parking space for each 3 seats shall be provided for both theaters at 210 and 300 Newport Center Drive on weekday evenings beginning at 5:30 p.m., and on Saturdays and Sundays and recognized holidays.
16. The off-site parking shall be provided per the existing recorded off-parking agreements found in the Title Report for the subject properties. Upon notification that the agreement for the required off-site parking has terminated or access to those spaces is no longer available, the Director shall establish a reasonable time in which one of the following shall occur:
  - a. Substitute parking is provided that is acceptable to the Community Development Director; or
  - b. The size or capacity of theater use is reduced in proportion to the parking spaces lost.
17. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
18. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The exemption provided in NBMC Subsection 10.26.035(L) shall not be applicable to noise generated on the subject property.
19. Should the property be sold or otherwise come under different ownership, any future

- owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
20. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
  21. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
  22. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
  23. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments, (including Water Quality related requirements).
  24. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
  25. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
  26. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
  27. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
  28. 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 Big Newport 6 Movie Theater Alcoholic Beverage Control License including, but not limited to, PA2016-020 for Use Permit No. UP2016-003. 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.

### **Fire Department Conditions**

29. Carbon dioxide systems with more than 100 pounds of carbon dioxide used in beverage dispensing applications shall comply with California Fire Code (CFC) Sections 5307.2 through 5307.5.2.
30. As per CFC Sections 5307.5 carbon dioxide storage tanks, cylinders, piping and equipment located indoors where a leak of carbon dioxide can collect shall be provided with either ventilation in accordance with CF Section 5307.5.1 or an emergency alarm system CFC Section 5307.5.2.

### **Police Department Conditions**

31. There shall be no dancing allowed on the premises.
32. All owners, managers, and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
33. Approval does not permit the premises to operate as a "bar, tavern, cocktail lounge or nightclub": as defined by the Newport Beach Municipal Code.
34. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
35. Alcohol beverage sales shall cease at 12:00 a.m. daily for the first year. As determined by the Community Development Director that there have been no issues related to the

- alcohol sales during the first year of alcohol sales, sales may be extended to 1:00 a.m., daily.
36. All sales or service of alcoholic beverages in the licensed premises shall be made only from the areas specifically licensed by the Department of Alcoholic Beverage Control, or by trained servers within the general spectator areas. The alcohol beverages must be personally delivered to the patron by the employee who took the order.
  37. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person during a single transaction. The delivery of alcoholic beverages to patrons inside the auditoriums shall be limited to two (2) per patron per screening.
  38. Patrons shall be required to show valid identification to verify age at the point of sale for alcohol. Orders from patrons seated in theater seats must be made to the server serving that area and the alcoholic beverages ordered must be personally delivered to the patron by the server who took the order.
  39. Servers shall not carry a supply of unordered alcoholic beverages. "Hawkers" shall be prohibited.
  40. Food service from the regular menu must be made available to patrons during all hours of alcohol service.
  41. There shall be no reduced price alcoholic beverage promotions.
  42. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.



# **Attachment No. PD 2**

Project Description and Narrative Justification



**REGAL  
ENTERTAINMENT  
GROUP**

REGAL  
CINEMAS

UNITED ARTISTS  
Theatres

EDWARDS  
THEATRES

RECEIVED BY  
COMMUNITY  
DEC 01 2016  
DEVELOPMENT  
CITY OF NEWPORT BEACH

### PROJECT DESCRIPTION

Regal Theatres is requesting a Conditional Use Permit to allow the on-site sale of a full line of alcoholic beverages (ABC Type 47) for the Big Newport 6 Cinema located at 300 Newport Center Drive. The Applicant does not propose any changes to the existing parking area or other site renovations with this application. There are no changes or amendments requested for the existing Use Permit No. 1527.

#### General Operations

The primary use of the premises shall be a movie theater. Regal will serve food in conjunction with the service of alcohol consistent with a Type 47 (on-sale general for bona fide public eating place). This is the same type of alcohol license used by restaurants that serve alcohol to patrons in conjunction with food service.

#### Policies Regarding the Service of Alcoholic Beverages and Security Provisions

##### **Training**

Employees (referred to as "Cast Members") selling or serving alcoholic beverages must complete a Responsible Beverage Server Training course through Regal Online University (ROU). Cast members must be 18 years of age or older to sell alcoholic beverages.

##### **Alcohol Purchases**

Cast Members are trained to request identification from each guest purchasing alcohol regardless of their age. Identification must be shown with each purchase. Guests cannot purchase alcohol for other guests - unless each guest is at the register and has provided proper identification. Alcohol is sold in clear plastic cups that are clearly distinguishable from the other non-alcoholic drinks available for purchase.

##### **Guest Issues and Monitoring**

Cast members regularly conduct auditorium checks to ensure all theater guests are acting appropriately at all times. Guests may not exit the theatre premises with alcoholic beverages. Although it has not been an issue at the Regal Theaters currently serving alcoholic beverages, Managers are trained to take corrective action and escort any guest out of the theater who is acting inappropriately or if Theater Staff suspects a minor is consuming alcoholic beverages. Again, this type of behavior has not been a problem because of Regal's policies to prevent it.

#### Volunteered Conditions Regarding the Service of Alcoholic Beverages

(To be made part of CUP and/or ABC License)

1. No person under the age of 18 shall sell or serve alcoholic beverages.
2. The gross annual sales from alcoholic beverages shall not exceed 50% of the total gross annual sales. (This is consistent with an ABC bona fide eating place license where food sales must exceed alcohol sales.)

3. Sales of alcoholic beverages for consumption off the premises are prohibited.
4. All managers and employees involved in the sale or service of alcoholic beverages shall enroll in and complete a Responsible Beverage Service training program.
5. All sales and service of alcoholic beverages for consumption in the general spectator seating areas shall be made only from concession stands, portable stands or bars, or fixed bars, and shall not be sold, served, or delivered to customers by individual ambulatory vendors, commonly known as "hawkers".
6. Notwithstanding condition #5, above, alcoholic beverages may be sold or served by waiters or waitresses in the general spectator seating areas under the following conditions:
  - Orders from patrons seated in these theaters must be made to the waiter or waitress serving that area, and the alcoholic beverages must be personally delivered to the patron by the waiter or waitress who took the order.
  - The waiter or waitress serving in the theaters shall not carry a supply of unordered alcoholic beverages.
7. No more than two (2) alcoholic beverages shall be sold or served to any one (1) person during a single transaction. The delivery of alcoholic beverages to patrons inside the auditoriums shall be limited to two (2) per patron per screening.
8. Alcoholic beverages shall be served in non-glass containers which significantly differ in appearance from those containers utilized for non-alcoholic beverages.
9. At all times when the premises is exercising the privileges of their license, an employee of the premises shall enter and monitor the activity within the theaters on a regular basis, but no less than once every 30 minutes.
10. Lighting shall remain at a level sufficient to allow Theater Staff to observe patrons who may be consuming alcoholic beverages.
11. Applicant shall post clearly visible signs that read, "No Alcoholic Beverages Beyond This Point" at all exits.

### **Scope of Work**

As shown on the plans, the proposed project consists of a 170 square foot remodel of a portion of the existing Lobby 1 concession stand, located in the Auditorium 1 building. This will include the demolition of a portion of the existing front and rear concession stand and provide a new bar front and back counter, as well as new bar equipment.

Site renovations consist of the addition of a new 42 inch tall metal gate and guard rail pedestrian barrier system to enclose the patron walkway and guide circulation from upper level lobbies to lower level lobby in compliance with the volunteered conditions of this conditional use permit application.

The Applicant does not propose any changes to the existing parking area or other site renovations with this application. There are no changes or amendments requested for the existing Use Permit No. 1527.



**REGAL THEATERS – BIG NEWPORT 6  
300 NEWPORT CENTER DRIVE, NEWPORT BEACH, CA**

Regal Entertainment Group operates Regal Cinemas, Edwards Theaters, and United Artist Theaters, the largest and most geographically diverse theater circuit in the United States, consisting of more than 570 theatres in 42 states.

The traditional pairing of dinner and a movie has evolved into dinner and drinks *with* a movie. The desire for this upscale movie experience has rapidly expanded across the country as theaters cater to adults looking for an exceptional big screen theater experience. With the myriad of entertainment options now available at home, offering meals along with a glass of beer or wine allows theater operators to attract audiences mainly in the 30 to 45-year-old range and provides an ultimate hospitality experience that keeps people coming back. Regal attributes this success to the high-end nature of the pairing of alcoholic beverages, food, and movies. Simply put, the costs of a movie ticket and the premium paid for theater food and beverage concessions including alcoholic beverages, caters to responsible patrons looking for an upscale theater experience that results in moderation, not overconsumption.

The Regal policies ensure that alcohol service and monitoring is diligent and that there is no disruption to our theaters, guests, or the surrounding community. Regal knows that all of its guests have more entertainment choices than ever. These guests have spent their hard earned money to enjoy a movie at Regal and won't tolerate any behavior or alcohol-related disruption that interferes with their movie experience.

**Justification and Findings**

**1. The use is consistent with the General Plan and any applicable specific plan.**

The subject property is located within the Office Regional Commercial (OR) Zoning District and the General Plan Land Use Element category is Commercial Office District. The subject property is not located within the coastal zone. The theater use is consistent with that designation as it is a supporting use that is integrated as part of a retail commercial center, an allowed use under the OR designation. The food and alcohol concessions for the movie theater are compatible with the existing and allowed land uses at the subject location.

The theater has already established itself as an entertainment destination by providing patrons with upscale/luxurious movie screenings and extensive food options. The upscale theatre with alcohol and food service will ensure Big Newport 6 remains a premiere theater destination.

- 2. The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.**

Big Newport 6 was established in 1969. The current Zoning is OR (Office—Regional) Zoning District. The OR Zoning District is intended to provide for areas appropriate for corporate offices, administrative and professional offices that serve local and regional markets, with limited accessory financial, retail, service, and entertainment uses. This Zone is intended to be a vibrant commercial center with a wide variety of businesses that serve visitors, residents, and employees of the area. The proposal to offer alcoholic beverage service at the movie theater is compatible with other uses within the Zoning District.

- 3. The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.**

This Application is for the addition of alcoholic beverage sales at an existing theatre. Big Newport has proven to be a compatible business for this community and is not a detriment to the other uses in the vicinity. Regal has been at the forefront of upgrading the theater experience across the nation. Currently Regal operates theaters throughout the country, some which offer a selection of alcoholic beverages in theaters with mixed aged patrons. Regal has offered alcoholic beverages at its other Newport Beach location (Islands 7) since 2012 as well as in other states with great success and without the problems that can happen at hospitality businesses that are not properly managed.

Regal is proposing to serve alcoholic beverages to its guests in conjunction with a Type 47 ABC license (on-sale general public eating place). Movies are typically shown 11:30 a.m. to 1:00 a.m., but may be earlier or later for special events and premiers. There are no residential properties, or other incompatible land uses, within the immediate vicinity of the theater. The conditions of approval and the Regal policies described in detail in the Project Description will ensure that there is no disruption to our theaters, guests, or the surrounding community.

In addition, Regal has a comprehensive alcohol policy which oversees all aspects of alcohol sales, service and consumption.

- 4. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and vehicle (e.g., fire and medical) access and public services and utilities.**

The project site is located within an existing movie theater building. The lobby and theater screening rooms are designed and developed for food and beverage service.

Adequate public and emergency vehicle access, public services, and utilities are provided within the existing infrastructure.

- 5. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.**

The primary use of the premises shall be a movie theater. Regal will serve food in conjunction with the service of alcohol consistent with a Type 47 (on-sale general for bona fide public eating place license). This is the same type of alcohol license used by restaurants that serve alcohol to patrons in conjunction with food services. Regal has a track record of responsibly serving alcoholic beverages at its Islands 7 Newport Beach location since 2012. Regal's operating policies for the Responsible service of alcoholic beverages and the conditions of approval will ensure the proposed alcohol sales of the existing Big Newport 6 Theater will 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 proposed use. Instead, Regal believes the requested operational changes will benefit the community.

# **Attachment No. PD 3**

Security Plan



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CITY OF NEWPORT SPAIN

**REGAL CINEMA – BIG NEWPORT 6**  
**SECURITY PLAN**

**Overview**

Regal is proposing to serve a full line of alcoholic beverages. The Regal policies described in detail below ensure that alcohol service and monitoring is diligent and that there is no disruption to our theaters, guests, or the surrounding community. The premises is an existing 6 screen movie theater within the Fashion Island Shopping Complex with approximately 1,134 seats.

**General Operations**

The primary use of the premises is a movie theater. Regal will serve food in conjunction with the service of alcoholic beverages with a Type 47 ABC license. This is the same type of alcohol license used by restaurants that serve a full line of alcoholic beverages to patrons in conjunction with food service.

**Security Measures**

Regal does not have regular security on site, but retains uniformed security guards for large screening or premier events as needed. Employees must complete a course in responsible beverage service which includes awareness of the existing laws, monitoring, checking identification and penalties for noncompliance. Furthermore, as outlined in the project description, Regal Cinemas has volunteered conditions regarding the service of alcoholic beverages to be made part of the CUP and ABC license. These conditions help ensure the safety and security of patrons and employees:

1. No person under the age of 18 shall sell or serve alcoholic beverages.
2. The gross annual sales from alcoholic beverages shall not exceed 50% of the total gross annual sales. (This is consistent with an ABC bona fide eating place license where food sales must exceed alcohol sales.)
3. Sales of alcoholic beverages for consumption off the premises are prohibited.
4. All managers and employees involved in the sale or service of alcoholic beverages shall enroll in and complete a Responsible Beverage Service training program.
5. All sales and service of alcoholic beverages for consumption in the general spectator seating areas shall be made only from concession stands, portable stands or bars, or fixed bars, and shall not be sold, served, or delivered to customers by individual ambulatory vendors, commonly known as "hawkers".
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  8. Alcoholic beverages shall be served in non-glass containers which significantly differ in appearance from those containers utilized for non-alcoholic beverages.
  9. At all times when the premises is exercising the privileges of their license, an employee of the premises shall enter and monitor the activity within the theaters on a regular basis, but no less than once every 30 minutes.
  10. Lighting shall remain at a level sufficient to allow Theater Staff to observe patrons who may be consuming alcoholic beverages.
  11. Applicant shall post clearly visible signs that read, "No Alcoholic Beverages Beyond This Point" at all exits.

Utilizing a similar security plan at Island 7 Cinemas in Newport Beach, Regal has been approved to serve alcoholic beverages since 2011 and has done so with great success and without negative impacts or nuisance activity.

### **Surveillance Cameras**

Surveillance cameras are situated throughout the premises to monitor both interior and exterior activity. Surveillance footage is maintained digitally and shared with law enforcement upon request. Multiple areas can be monitored and viewed simultaneously by security staff or management.

### **Training**

Regal specifically requires its Employees (referred to as "Cast Members") to complete a Responsible Beverage Service (RBS) Class. Cast members must be 18 years of age or older to sell alcoholic beverages.

### **Alcohol Purchases**

Cast Members are trained to request identification from each guest purchasing alcohol regardless of their age. Identification must be shown with each purchase. Guests cannot purchase alcohol for other guests unless each guest is at the register and has provided proper identification. Beer and wine are sold in clear plastic cups that are clearly distinguishable from the other non-alcoholic drinks available for purchase.

### **Guest Issues and Monitoring**

Cast members regularly conduct auditorium checks to ensure guests purchasing alcohol are acting appropriately at all times. Guests may not exit the theatre premises with alcoholic beverages. Although it has not been an issue at the Regal Theaters currently serving alcoholic beverages, Managers are trained to take corrective action and escort any guest out of the theater who is acting inappropriately or if Theater Staff suspects a minor is consuming alcoholic beverages.