



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending November 2, 2018.

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

Item 1: SAP Grade Determination– Staff Approval No. SA2018-009 (PA2018-240)
Site Address: 3366 Via Lido

Action: Approved

Council District 1

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.



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

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COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

APPLICATION: Staff Approval No. SA2018-009 (PA2018-240)
SAP Grade Determination

APPLICANT: Burnham USA Equities, Inc.

LOCATION: 3366 Via Lido

LEGAL DESCRIPTION Parcel 2 of Resubdivision No. 433

On **November 2, 2018**, the Community Development Director approved a staff approval for the establishment of an alternate grade pursuant to Newport Beach Municipal Code (NBMC) Subsections 20.30.050(C) and 21.30.050(C) (Grade Establishment by Director) at 208 Via Lido Nord. In this case, the Director established 9.97 feet North American Vertical Datum of 1988 (NAVD88) as the appropriate grade for measuring the height of accessory structures within the ten-foot front setback area adjacent to the water.

LAND USE AND ZONING

- **Zone:** MU-W2 (Mixed-Use Water Related)
- **General Plan:** MU-W2 (Mixed-Use Water Related)
- **Coastal Zone:** MU-W (Mixed-Use Water Related)
- **Coastal Land Use Plan:** MU-W (Mixed-Use Water Related)

DISCUSSION

The subject parcel is a 21,577-square-foot lot located between Via Lido and Newport Bay in Lido Village. The property is currently developed with a 15,606-square-foot office building constructed in 1954. The slope characteristics of the lot include a relatively flat pad with a lowered patio area at the waterfront where the walkway connects to the adjacent boardwalk and marina. The existing lowered patio improvements are approximately two feet below the existing pad level (Attachment CD 1).

Pursuant to Newport Beach Municipal Code (NBMC) Subsections [20.30.040.D](#) and [21.30.040.D \(Measurement of Fence or Wall Height\)](#), the height of a fence, hedge, or wall shall be measured from the existing grade prior to construction at the location where the fence, hedge, or wall is located.

However, this method of grade establishment does not work in this case because of the unique grade profile of the site. When the site was originally developed, portions of the

property within the waterfront 10-foot setback were substantially altered with steps, patios, and retaining walls. Measuring height from the grade directly below each structure would result in elevations below the predominant grade elevations of the property along the upper pad portion of the site and would restrict the height of proposed guardrails, walls, and an ADA access lift for disabled access. The elevations of the site, together with existing elevations on adjacent properties, suggest that using the finished floor elevation for the office building are appropriate for the measurement of height for accessory structures located in the area where the grade is lowered. The applicant has submitted a topographic survey showing existing grade elevations in the waterfront patio areas along with a site plan with proposed improvements for this area (Attachment CD 3).

The 10-foot waterfront setback is located in an area that provides lateral coastal pedestrian access to the public. The proposed accessory improvements will in no way restrict public access and will instead improve the area with an ADA lift and enhanced surface improvements within the pedestrian walkway.

The purpose of this grade determination is to ensure proposed development of accessory structures in the waterfront setback area is representative of prevailing grades on the rest of the site and adjacent properties.

FINDINGS

In accordance with NBMC Subsections 20.30.050(C) and 21.30.050(C) (Grade Establishment by Director):

“If the Director finds that the existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot, the Director may establish the grade that is reasonable and comparable with the grades of adjoining lots and that will not be detrimental or injurious to property and improvements on adjoining lots.”

The Director’s approval is based on review of the topography of the property and the adjoining properties (Attachment No. CD 3), as is relates to the following findings, and is subject to the following conditions.

Finding:

- A. *The existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot.*

Facts in Support of Finding:

1. The Applicant is renovating the property with interior tenant improvements for a new office and coffee shop tenant along with exterior upgrades and landscaping; however, the grades along the front bulkhead setback area include depressed areas that are not representative of the prevailing grades on the two adjoining properties. This grade differential creates design constraints and unfairly restricts the heights of accessory structures below those of the neighboring properties.
2. The current development includes a dropped patio elevation of approximately 7.65 feet (NAVD88) that is located on the bay facing side of the building adjacent to a public access walkway. This patio elevation is approximately two feet lower than the rest of the property. It is also approximately 2 feet 5 inches lower than the adjacent property to the east (3348 Via Lido; 10.1 feet [NAVD88]) and approximately 2 feet 2 inches lower than the adjacent property to the west (3388 Via Lido; 9.85 feet [NAVD88]). Therefore, this lower grade is not appropriate for the purposes of measuring height of the accessory structures.

Finding:

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

Fact in Support of Finding:

1. Establishing a grade of 9.97 feet (NAVD88) for the waterfront setback, which is higher than the existing grade elevation (7.65 feet [NAVD88]), would provide the property with a grade elevation that is compatible with those of the neighboring properties and adjacent finished floor elevation of the building. The proposed grade is therefore more representative of the natural and existing grades and topography of the adjoining properties. This is equitable for the purposes of measuring heights of accessory structures within the waterfront setback.
2. The development of the property is required to comply with all applicable development standards of the Zoning Code, which are in place to prevent detriment or injury to the existing property and neighboring properties and improvements on adjoining lots.

Finding:

- C. The project is exempt from environmental review under the requirements of the California Environmental Quality Act Guidelines pursuant to Section 15303, Class 3 (New Construction or Conversion of Small Structures).*

Fact in Support of Finding:

1. Class 11 exempts the construction or replacement of minor accessory structures to (appurtenant to) existing commercial, industrial, or institutional facilities. The proposed project consists of the construction of accessory structures including a deck, guardrails, ADA access lift, and retaining wall repairs within the 10-foot bulkhead waterfront setback. The subject grade determination is consistent with this exemption, as it is related to the construction tenant improvements within the adjacent existing commercial office building.

CONDITIONS

1. The grade for the purposes of measuring height of accessory structures authorized by this determination shall be based on existing grade prior to construction or alternate grade of 9.97 feet (NAVD88) whichever is greater.
2. A copy of this action letter, including the findings and conditions, shall be copied onto the building plans.
3. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the SAP Grade Determination including, but not limited to the SA2018-009 (PA2018-240). 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. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Seimone Jurjis, P.E., C.B.O., Community Development Director

By:



Makana Nova
Associate Planner
GR/mkn

- Attachments: CD 1 Vicinity Map
 CD 2 Applicant's Request and Justification
 CD 3 Grading Plan

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2018-009
(PA2018-240)

3366 Via Lido

Attachment No. CD 2

Applicant's Request and Justification

3366 Via Lido – Grade Determination

Dated: October 16, 2018

Project: **3366 Via Lido**
Newport Beach, California

Project Description:

The original Newport-Balboa Savings building located at 3366 Via Lido was designed and constructed by Wenceslaus Sarmiento in 1954. The building was then remodeled in 1960 with a series of exterior modifications over the years. The architectural style of the newly renovated building respects the original building design while creating a more contemporary California Coastal Style in-line with the exterior of other recently renovated buildings in Lido Village.

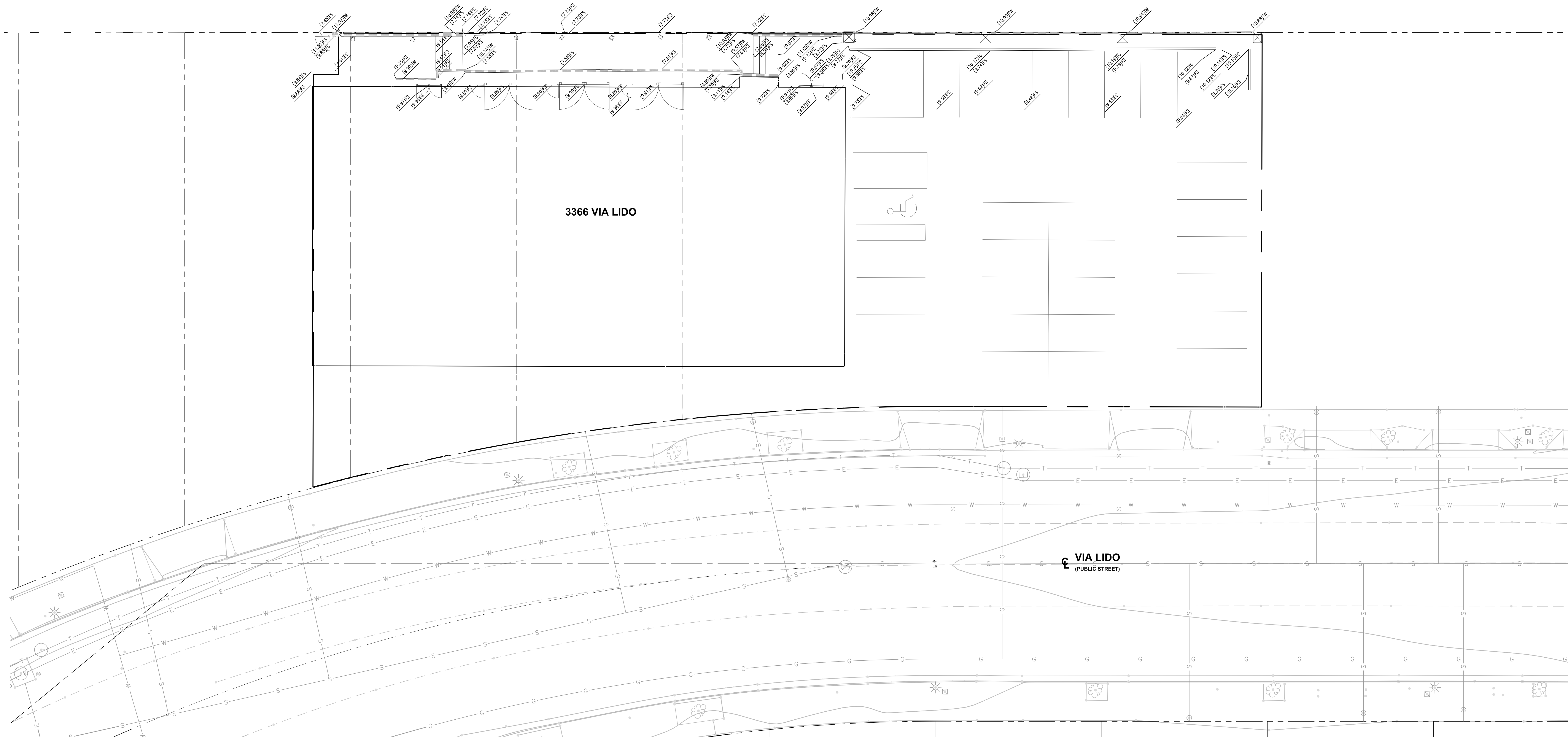
3366 Via Lido has an existing concrete deck that connects pedestrians to Lido Marina Village boardwalk. Currently the deck has non conforming stairs without handrails, a non conforming guardrail and sloped area. The deck also does not provide ADA access from Lido Marina Village boardwalk.

The proposed grade determination at 3366 Via Lido will allow the building improvement to continue with the renovation of the existing deck. The grade determination would allow the new deck to be rebuilt with updated building materials and current building codes to match other renovations recently completed in and around Lido Village. This would involve adding an ADA compliant lift and compliant stair with handrails. The guardrail along the entire waterfront will be brought up to current code as well. The grade determination will provide much needed ADA improvements and increased coastal access to connect 3366 Via Lido to the boardwalk and Lido Marina Village.

Attachment No. CD 3

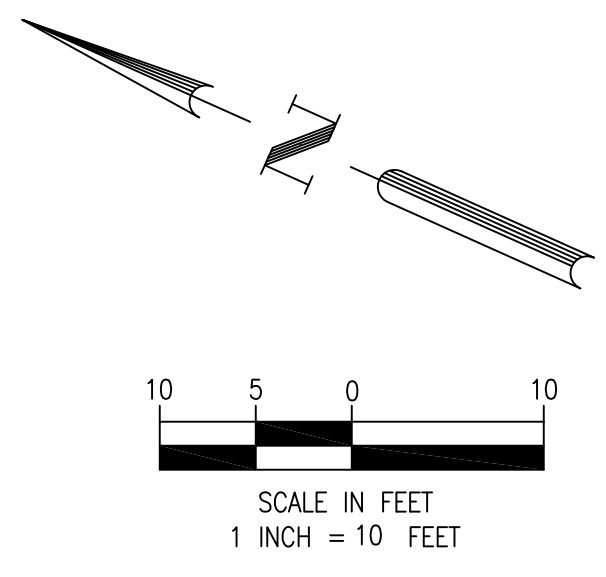
Grading Plan

NEWPORT HARBOR



LEGEND:

- | | | | |
|-----------------------------------|----------------------------|------------------------------|------------------------|
| NLY - NORTHERLY | MB - MAILBOX | ⊙ - WATER VALVE | ⊙ - STREET LIGHT |
| SLY - SOUTHERLY | MH - MANHOLE | ⊙ - WATER METER | ⊙ - PARKING LOT LIGHT |
| Ely - EASTERLY | PA - PLANTER AREA | ⊙ - FIRE HYDRANT | ⊙ - POWER POLE |
| Wly - WESTERLY | PL - PROPERTY LINE | ⊙ - BACK FLOW DEVICE | ⊙ - GUY WIRE |
| AC - ASPHALT CONCRETE | PIV - POST INDICATOR VALVE | ⊙ - PIV | ⊙ - PULL BOX |
| BLDG - BUILDING | PP - POWER POLE | ⊙ - FIRE DEPT. CONNECTION | ⊙ - GAS VALVE |
| CF - CURB FACE | S - SEWER | ⊙ - IRRIGATION CONTROL VALVE | ⊙ - GAS METER |
| CLF - CHAIN LINK FENCE | SCO - SEWER CLEANOUT | ⊙ - MAILBOX | ⊙ - TELEPHONE PEDESTAL |
| CONC - CONCRETE | SD - STORM DRAIN | ⊙ - MANHOLE | ⊙ - TREE |
| COR - CORNER | SMH - SEWER MANHOLE | ⊙ - SEWER MANHOLE | ⊙ - SIGN |
| EP - EDGE OF PAVEMENT | SPK - SPIKE | ⊙ - STORM DRAIN MANHOLE | ⊙ - TELEPHONE MANHOLE |
| FD - FOUND | TRANS - TRANSFORMER | ⊙ - CATCH BASIN | ⊙ - WALL |
| FDC - FIRE DEPT. CONNECTION | TELE - TELEPHONE | ⊙ - GRATE DRAIN | ⊙ - RETAINING WALL |
| ICV - IRRIGATION CONTROL VALVE | W - WATER | ⊙ - DRAIN INLET | ⊙ - CHAIN LINK FENCE |
| IP - IRON PIPE | ⊙ - ANGLE POINT | ⊙ - GUARD POST | ⊙ - WROUGHT IRON FENCE |
| ⊙ - PLOTTED TITLE REPORT ITEM NO. | ⊙ - CENTERLINE | | ⊙ - HANDICAP PARKING |
-
- | | |
|-----|-------------------|
| ——— | STREET CENTERLINE |
| ——— | BOUNDARY LINE |
| ——— | LOT LINE |
| ——— | TIE LINE |
| ——— | RIGHT-OF-WAY LINE |
| ——— | EASEMENT |



BENCHMARK:
 O.C.B.M. NB3-18-88 ELEV.=18.418' LEVELED IN 2015
 DESCRIBED BY OCS 2002 - FOUND 3 3/4" OCS ALUMINUM BENCHMARK DISK
 STAMPED "NB3-18-88", SET IN THE TOP OF A CONCRETE BRIDGE
 ABUTMENT. MONUMENT IS LOCATED IN THE SOUTHWEST CORNER OF THE
 INTERSECTION OF WEST LIDO CHANNEL AND VIA LIDO, 19 FT.
 SOUTHEASTERLY OF THE CENTERLINE OF VIA LIDO AND 0.3 MILES
 SOUTHEASTERLY OF NEWPORT BOULEVARD. MONUMENT IS SET 5 FT. BELOW
 THE BRIDGE DECK.

SURVEYOR'S STATEMENT:
 THIS MAP CORRECTLY REPRESENTS A SURVEY MADE BY ME, OR UNDER MY DIRECTION, IN CONFORMANCE WITH THE
 REQUIREMENT OF THE PROFESSIONAL LAND SURVEYORS' ACT.

Jeffrey A. Walden
 JEFFREY A. WALDEN, P.L.S. 7914 DATE 10/11/2018



WALDEN & ASSOCIATES
 CIVIL ENGINEERS
 PLANNERS
 LAND SURVEYORS
 2552 WHITE ROAD, SUITE B, IRVINE, CA 92614
 (949) 660-0110 FAX: 660-0418

TOPOGRAPHIC SURVEY
 OF A PORTION OF
3366 VIA LIDO
 NEWPORT BEACH, CA

JOB NUMBER
 1957-803-001
 DATE: 10/11/18
 DRAWN: M.F.
 CHECKED: J.W.
 SHEET
 1
 OF
 1