



## 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 April 29, 2022.

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### ZONING ADMINISTRATOR ACTIONS APRIL 28, 2022

- Item 1: Ravera Residential Condominiums Tentative Parcel Map No. NP2022-003 (PA2022-013)  
Site Address: 709 Marigold Avenue  
Action: Approved by Resolution No. ZA2022-030 Council District 6
- Item 2: Joey's Restaurant Lot Line Adjustment No. LA2021-001 (PA2021-302)  
Site Address: 451, 453 and 455 Newport Center Drive  
Action: Approved by Resolution No. ZA2022-031 Council District 5
- Item 3: Mochinut Minor Use Permit No. UP2021-007 and Coastal Development Permit No. CD2021-009 (PA2021-031)  
Site Address: 200 Main Street and 804 East Balboa Boulevard  
Action: Approved by Resolution No. ZA2022-032 Council District 1

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

- Item 1: Newport Ridge Park Pickleball Courts - Staff Approval No. SA2022-003 (PA2022-091)  
Site Address: 6331 East Newport Ridge Drive  
Action: Approved Council District 7

**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.

## RESOLUTION NO. ZA2022-030

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2022-003 FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 709 MARIGOLD AVENUE (PA2022-013)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Robert W. Ravera and Cathy Lynn Ravera (Applicant/Owner), with respect to property located at 709 Marigold Avenue, and legally described as Lot 9, Block 739 Corona del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. The applicant requests a tentative parcel map for two (2)-unit condominium purposes. A duplex has been demolished and a new duplex is currently under construction. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The tentative parcel map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on April 28, 2022, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel

Map is for condominium purposes and is consistent with all requirements of the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on the following findings per NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps):

#### Finding:

*A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. A duplex has been demolished and a new duplex is currently under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Marigold Avenue frontage and any damaged concrete alley panels consistent with NBMC Title 19.

#### Finding:

*B. That the site is physically suitable for the type and density of development.*

#### Facts in Support of Finding:

1. The lot is physically suitable for two (2)-unit residential development because it is regular in shape and size. An existing duplex has been demolished and a new duplex is currently under construction.
2. The new duplex development is compliant with the Zoning Code Section 20.18.030 Table 2-3 minimum site area per dwelling unit of 1,000 square feet.
3. The subject property is accessible from the alley and is adequately served by all existing utilities.

Finding:

C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. A duplex has been demolished and a new duplex is currently under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Title 14, Division 6, Chapter 3) of the CEQA Guidelines – Class 15 (Minor Land Alterations).

Finding:

D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public access easements located on the property.

Finding:

*F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The property was previously developed with a residential use and is located in a Zoning District that permits residential uses.

Finding:

*G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

*H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Code of Regulations (the California Building Code) that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

*I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The two (2)-unit dwelling that is under construction is consistent with the intended uses of the R-2 Zoning District, which allows two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

*J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The new two (2)-unit dwelling is designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

*K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is not within the Coastal Zone.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2022-003, subject to the conditions set forth in Exhibit "A," which is attached here to and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>th</sup> DAY OF APRIL, 2022.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
3. The building permit for the new construction shall not be final until after recordation of the parcel map.
4. 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 19 (Subdivisions) of the Newport Beach Municipal Code.
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 Ravera Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2022-003 (PA2022-013). 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.

**Public Works Department**

6. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**



7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (1-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. The curb, gutter and sidewalk along the Marigold Avenue frontage and all damaged alley panels along the alley frontage, shall be reconstructed per City Standard.
10. New sod or low groundcovers approved by the City shall be installed throughout the Marigold Avenue parkway along the development site.
11. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
12. All existing overhead utilities shall be undergrounded.
13. No above ground improvements are permitted within the 5-foot rear alley setback area.
14. An encroachment permit is required for all work activities within the public right-of-way.
15. Any non-standard encroachments within the Marigold Avenue public right-of-way shall be removed.
16. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110.
17. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

### **Building Division**

18. Independent utility services shall be provided for each unit.
19. Independent fire risers shall be required for each unit.
20. Construction shall comply with the California Code of Regulations.

## RESOLUTION NO. ZA2022-031

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING LOT LINE ADJUSTMENT NO. LA2021-001 LOCATED AT 451, 453 AND 455 NEWPORT CENTER DRIVE (PA2021-302)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Mucha of Irvine Company Retail Properties, with respect to property located at 451, 453 and 455 Newport Center Drive, and legally described as Parcel 1 of LLA 87-03 OR\_87-640346 requesting approval of a lot line adjustment.
2. The applicant proposes a lot line adjustment Joey's restaurant was recently approved by Minor Use Permit No. UP2021-046 (PA2021-263) to occupy an existing restaurant pad in Fashion Island. The approval included an outdoor dining patio that extends past the existing lot line into the landscaped common area owned by the Irvine Company. A lot line adjustment is required to accommodate the approved outdoor dining patio. The subject property is developed as a three (3)-restaurant pad and the proposed lot line adjustment will also true-up the lot lines around the entire building.
3. The subject property is designated Regional Commercial (CR) by the General Plan Land Use Element and is located within the PC56 (North Newport Center, Fashion Island Sub-Area) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 28, 2022, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The proposed Lot Line Adjustment affects the shared property line between two (2) parcels under common ownership and is for the purpose of creating an accessory outdoor dining patio to match similar amenities provided by other restaurants in the area. There will be no change in land use, density, or intensity.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (NBMC) Section 19.76.020 (Procedures for Lot Line Adjustments), the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot line adjustment is consistent with the legislative intent of the title.*

#### Facts in Support of Finding:

1. The property at 451, 453 and 455 Newport Center Drive is currently developed with a three (3)-restaurant pad building. The adjacent Irvine Company property (461 Newport Center Drive) serves as common landscape area between the restaurant pad and Newport Center Drive. The proposed Lot Line Adjustment will not change the existing General Plan Land Use or Zoning District of the two (2) parcels.
2. The proposed Lot Line Adjustment will not result in a development pattern that is inconsistent with the surrounding commercial area. The Fashion Island mall area is developed with many restaurants that include outdoor dining patios. The restaurant property will continue to accommodate the existing restaurants and the new Joey's restaurant with the outdoor dining patio. It will also clean-up areas of the existing restaurant structures that extended past the lot lines. The uses are consistent with the applicable General Plan Land Use and Zoning designation. The lots have identical Zoning and General Plan designations of PC56 and CR. The lots will maintain their current Zoning and General Plan designation and the uses will continue to be consistent with these designations.
3. Future development at both lots will continue to be required to comply with all applicable development standards specified by the PC56 Zoning District. Accessory structures such as the outdoor dining patio are permissible on the expanded parcel under the existing land use designations and zoning districts as approved by Minor Use Permit No. UP2021-046 (PA2021-263).
4. The proposed Lot Line Adjustment is consistent with the purpose identified in NBMC Chapter 19.76 (Lot Line Adjustment). The Lot Line Adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where land taken from one (1) lot and is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.

5. The Lot Line Adjustment is consistent with the General Plan, and does not negatively impact surrounding landowners, as the adjustment affects interior property lines between two (2) adjacent lots in common ownership. The existing land uses will remain and have not proven to be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

Finding:

- B. *The number of parcels resulting from the lot line adjustment remains the same as before the adjustment.*

Fact in Support of Finding:

1. The proposed lot line adjustment will adjust the property line between two (2) contiguous parcels under common ownership. The number of parcels remains the same as before the lot line adjustment.

Finding:

- C. *The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The three (3)-pad restaurant property known as 451, 453 and 455 Newport Center Drive is located within the PC56 (North Newport Center, Planned Community. Fashion Island Sub-area) Zoning District, which is intended to permit restaurant uses. The adjacent Irvine Company common areas including the landscaping and parking around the existing three (3)-pad restaurant property is also located within the PC56 Zoning District, with identical zoning and General Plan designation of Regional Commercial (CR). The proposed lot line adjustment will not change the existing use of the parcels affected. Future development at both lots will continue to be required to comply with all applicable development standards specified by the PC56 Zoning districts.
2. The proposed boundary adjustment will change the internal property lines between the subject properties, reallocating approximately 2,890.76 square feet of land from Parcel 1 LLA 2008-004 OR\_2009000150477 to Parcel 1 of LLA 87-03. The purpose of the lot line adjustment is to accommodate the recently approved Joey's outdoor dining patio approved by Minor Use Permit No. UP2021-046 (PA2021-263). Additionally, the lot line adjustment will true-up existing portions of the other two (2) restaurants on-site that extend past the existing lot lines.
3. The subject properties are located within the Fashion Island regional mall. The three (3)-pad restaurant parcel with surrounding landscaping and surface parking lot will continue

to maintain the existing uses and there are no minimum lot area requirements for properties within PC56 Zoning District.

Finding:

- D. *Neither the lots as adjusted nor adjoining parcels will be deprived legal access as a result of the lot line adjustment.*

Fact in Support of Finding:

1. The proposed Lot Line Adjustment affects the interior property lines between two (2) adjacent lots, under common ownership. Legal access to the two (2) properties will be maintained along Newport Center Drive, thus access to the subject properties will not be affected by the adjustment.

Finding:

- E. *That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Fact in Support of Finding:

1. Vehicular access to the restaurant is obtained from Newport Center Drive through a shopping center drive aisle to the south of the pad site and the final configuration will not change. There is no change to access or parking as a result of the lot line adjustment.

Finding:

- F. *That the final configuration of a reoriented lot does not result in any reduction of the street site setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street site setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street site setbacks are appropriate and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Fact in Support of Finding:

1. The final configuration of the proposed parcels does not result in a requirement for revised setbacks since the parcels are not proposed to be reoriented. The only required setback along Newport Center Drive of 10 feet will be maintained with the revised lot lines.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2021-001 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>th</sup> DAY OF APRIL, 2022.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to the recordation of the Lot Line Adjustment, the Applicant shall submit the exhibits to the Public Works Department for final review.
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 **Joey's Restaurant including, but not limited to, Lot Line Adjustment LA2021-001 (PA2021-302)**. 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.

## RESOLUTION NO. ZA2022-032

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2021-007 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-009 FOR A NEW RESTAURANT LOCATED AT 200 MAIN STREET AND 804 EAST BALBOA BOULEVARD (PA2021-031)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Optima Group Inc (Applicant), with respect to property located at 200 Main Street and 804 East Balboa Boulevard, and legally described as Lot 9, Block 11, of Tract A, requesting approval of a minor use permit and a coastal development permit.
2. The Applicant requests a minor use permit and coastal development permit to allow the operation of a 784-square-foot restaurant with 300 square feet of customer area (food service, no late hours). Alcohol service and/or late hours (after 11:00 p.m.) are not proposed. The project requires no additional parking pursuant to Newport Beach Municipal Code (NBMC) Sections 20.28.030 and 21.28.030 (Parking Management [PM] Overlay District).
3. The subject property is located within the Mixed-Use Vertical (MU-V) Zoning District and the General Plan Land Use Element category is Mixed Use Vertical (MU-V).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Vertical (MU-V) and it is located within the MU-V (Mixed-Use Vertical) Coastal Zone District.
5. A public hearing was held on April 28, 2022, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The project includes improvements to the 784-square-foot commercial suite to create a customer ordering and point of sales area, a kitchen and prep area, and a storage room. The project also includes accessibility upgrades to the restroom in the tenant suite and new rooftop mechanical equipment fully screened from public view.



2. Class 3 exempts new commercial construction of less than 10,000 square feet in floor area, if zoned for such use, if not involving the use of significant amounts of hazardous substances where all necessary public services and facilities are available and the surrounding area is not environmentally sensitive.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

#### **Minor Use Permit**

In accordance with Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The General Plan land use category for this site is MU-V Mixed-Use Vertical. MU-V is intended to provide for the development of properties for mixed-use structures that vertically integrate housing with retail uses including retail, office, restaurant, and similar nonresidential uses. The proposed restaurant is consistent with this land use category and is not expected to introduce excessive noise, vibration, odors, or other activities that would adversely impact on-site residential units.
2. Eating and drinking establishments (i.e., “restaurants”) and visitor-serving uses exist in the Balboa Village area. The proposed restaurant would be complementary to the surrounding commercial and residential uses.
3. The subject property is not part of a specific plan area.

#### Finding:

- B. *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 project includes improvements to the 784-square-foot commercial space to create a customer ordering and point of sales area, a kitchen and prep area, and a storage

room. The project also includes accessibility upgrades to the common bathroom in the building and new rooftop mechanical equipment fully screened from public view. The equipment parapet screen will be painted to match the existing building's architecture. The Applicant proposes ten (10) seats within the 300 square foot customer area and the proposed hours of operation are from 9:00 a.m. to 11:00 p.m., daily. Due to the project's proximity to residential uses, Staff recommends the hours of operation to be 9:00 a.m. to 10 p.m., daily. A restaurant is a permitted use in the MU-V Zoning District subject to the approval of a minor use permit pursuant to NBMC Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements).

2. The subject property was originally developed in 1928, and currently has a two (2)-story mixed-use building. The building has two (2) commercial tenant suites on the ground floor and two (2) residential units on the second floor. The existing mixed-use structure is being renovated under Building Permits Nos. X2020-0011 and X2020-0012, so no tenants currently occupy the building. The site does not provide on-site parking. The building is considered legal nonconforming for parking.
3. In order to implement the provisions of the Balboa Village Parking Management Overlay District Plan (PM-1) within the Coastal Zone, the City submitted a consolidated coastal development permit application to the California Coastal Commission on March 11, 2022, in accordance with Subsection 21.28.030(E) (Coastal Development Permit Required) of the NBMC. As the City's application is pending review and approval, the Applicant's request includes a coastal development permit to analyze the off-street parking requirement.
4. As demonstrated by the Balboa Village Parking Management Plan, prepared by Nelson Nygaard in May 2012, the project is in a relatively dense area with multiple uses within a short distance of each other. This proximity results in shared trips to multiple destinations or attractions, which reduces the amount of vehicular traffic. Balboa Village is also conducive to a significant number of pedestrians, bicyclists, and Balboa Peninsula Trolley riders, but tends to experience parking shortages in the daytime during the summer months. Ample parking is typically available during the rest of the year. Several municipal lots, including Palm Street, Washington Street, Balboa Pier and the A Street, and on-street parking are available in the area to accommodate the proposed use in both the summer season and the off-season months. Furthermore, given its location in center of Balboa Village, the restaurant is expected to generate a significant amount of walk-in traffic from residents and visitors already in the area during the peak summer months.
5. The proposed restaurant will comply with the standards for eating and drinking establishments, including those specific to the eating and drinking establishments under NBMC Section 20.48.090 (Eating and Drinking Establishments). The restaurant does not request alcohol service or late hours. Operational Conditions of Approval Nos. 4, 5, 6, 17, 21, 22, and 23 ensure that the restaurant will maintain compliance.

Finding:

- C. *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. The proposed restaurant can be accessed by either motorists, pedestrians, or cyclists from Main Street or East Balboa Boulevard.
2. Balboa Village is developed with a mix of uses including retail, office, and eating and drinking establishments. The proposed establishment is compatible with the existing and allowed uses.
3. Condition of Approval No. 4 limits the allowed hours of operation from 9:00 a.m. to 10:00 p.m., daily, which will minimize the potential for disturbances to the residential uses to the rear of the property.
4. A trash enclosure is currently provided on-site. All waste and recycling will be taken to the existing trash room inside the building. Condition of Approval No. 24 requires the operator maintain the trash area such that odors are controlled appropriately. Should the existing trash area be determined by the City in the future to be inadequate, the Applicant will be required to increase the frequency of pickups.

Finding:

- D. *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.*

Facts in Support of Finding:

1. The project site is located on the prominent northeastern corner of Main Street and East Balboa Boulevard, which is located at the center of Balboa Village. This area experiences heavy vehicular traffic and pedestrian activity in the summer season. The proposed restaurant is not expected to result in the creation of excessive vehicular and pedestrian activity.
2. The Fire Department reviewed the project and site to ensure adequate public and emergency vehicle access is provided.
3. Any proposed site and tenant improvements must comply with the zoning code and all Building, Public Works, and Fire Codes for permits to be issued.

**Finding:**

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the 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.
2. The proposed restaurant will add additional dining options to the neighborhood and provide an economic opportunity for the property owner to update the tenant space and provide additional services to residents and visitors.
3. The Applicant is required to obtain Health Department approval prior to opening for business and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.
4. The proposed use includes limited hours, no alcohol service is proposed, and there is no increased parking demand. Based upon the Zoning Code requirements, the proposed use will not result in a detriment to the surrounding community.

**Coastal Development Permit**

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

**Finding:**

- F. Conforms to all applicable sections of the certified Local Coastal Program.*

**Facts in Support of Finding:**

1. The project site is not located adjacent to a coastal view road or public access way. The restaurant is located on a developed mixed-use site. The restaurant complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development within Balboa Village. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

2. Facts in Support of Finding B.3 and B.4 is hereby incorporated by reference.
3. Improvements are complementary to the area; the subject restaurant and other restaurants within Balboa Village have similar operational features.
4. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by adding an amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.

Finding:

*G. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. However, the site does not have any coastal resources on or adjacent to it as the area is completely developed. The site does not provide any form of public access and it is not located along the coast; it is an inland parcel not fronting Newport Harbor or the Pacific Ocean. The Coastal Land Use Plan (CLUP) identifies the ends of Main Street public access points to the beach, as well as East Ocean Front as lateral access to the beach. The proposed development does not inhibit with the existing public access to the beach.
2. No public coastal views are present through the project site and the project is consistent with all applicable development standards provided in Title 21 that are intended to protect the visual quality of the coast and to protect coastal views. The nearest public viewpoint, as identified by the CLUP, is located on the Balboa Pier. The subject property does not interfere with public coastal views. In addition, the proposed project is anticipated to enhance the East Balboa Boulevard corridor by bringing a new storefront forward towards the public right-of-way.
3. See Fact in Support of Finding B.3, hereby incorporated for reference.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has

no potential to have a significant effect on the environment. The exceptions to this categorical exemption under Section 15300.2 are not applicable.

2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-007 and Coastal Development Permit No. CD2021-009 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning and Title 21 Local Coastal Implementation Plan, of the NBMC. The project site is located within the appeal area of the coastal zone; therefore, final action by the City may be appealed to the California Coastal Commission.

**PASSED, APPROVED, AND ADOPTED THIS 28<sup>TH</sup> DAY OF APRIL, 2022.**



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Jaime Murillo  
Zoning Administrator

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

*(Project-specific conditions are in italics)*

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. 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 Minor Use Permit.
4. *The hours of operation for the establishment shall be limited to 9:00 a.m. through 10:00 p.m., daily.*
5. *There shall be no sales and/or service of alcohol permitted unless a new use permit is approved.*
6. *Customer seating shall be limited to no more than ten (10) seats.*
7. *Customer area (i.e., "net public area") shall not exceed 300 square feet.*
8. *No outdoor seating is permitted unless an amendment to this Minor Use Permit or a Limited Term Permit is acquired.*
9. *All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the NBMC.*
10. *There shall be no use of amplified sound and/or live entertainment in the expanded dining area.*
11. *New rooftop equipment screening shall be architecturally compatible with the building to the satisfaction of the Planning Division.*
12. This Minor Use Permit No. UP2021-007 and Coastal Development Permit No. CD2021-009 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.

13. This Minor Use Permit and Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined 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.
14. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and an amendment to this Minor Use Permit or the processing of a new Minor Use Permit may be required.
15. 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.
16. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
17. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
18. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code (NBMC). The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

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. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday



through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.

21. No outside paging system shall be utilized in conjunction with this establishment.
22. 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.
23. 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.
24. 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).
25. All trash dumpsters and/or receptacles shall have a solid cover or lid. The lid shall remain closed when the dumpster is not in use.
26. 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 Minor Use Permit.
27. 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.
28. 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.
29. 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.
30. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature

whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Mochinut including, but not limited to, Minor Use Permit No. UP2021-007 and Coastal Development Permit No. CD2021-009 (PA2021-031)**. 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.

### **Public Works**

31. The Applicant is required to install a new sewer cleanout on the existing sewer lateral per City Standard Drawing No. 406.

### **Building Division**

32. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. 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.
33. Approval from the Orange County Health Department is required prior to the issuance of a building permit.



COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
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**COMMUNITY DEVELOPMENT DIRECTOR**  
**ACTION LETTER**

**Subject:** Newport Ridge Park Pickleball Courts (PA2022-091)  
▪ Staff Approval No. SA2022-003

**Site Location:** 6331 East Newport Ridge Drive

**Applicant:** Newport Ridge Community Association and The City of Newport Beach

**Legal Description:** Parcel 1 of Lot Line Adjustment No. LL 94-006. See Attachment No. CD 1 for property depiction, incorporated herein by reference.

On **April 29, 2022**, the Community Development Director approved Staff Approval No. SA2022-003 allowing the conversion of a portion of an existing baseball field into eight (8) outdoor pickleball courts. This approval is based on the following findings and subject to the following conditions.

**LAND USE AND ZONING**

- **Zone:** PC53 (Newport Ridge), Planning Area 10 – Recreation
- **General Plan:** PR (Parks and Recreation)

**SUMMARY AND PROJECT DESCRIPTION**

The Applicant requests the conversion of a portion of an existing baseball field at Newport Ridge Park into eight (8) outdoor pickleball courts. The outdoor pickleball courts will be allocated between the City and Newport Ridge Community Association (NRCA), with six (6) courts designated for public use managed by the City and two (2) courts designated for NRCA's exclusive use. The project also includes new park amenities such as sidewalks, benches, picnic tables, water fountains, shade mechanisms, landscape, and hardscape. The Applicant's request does not change the total square footage or operational characteristics approved for Newport Ridge Park. No additional on-site improvements are proposed.

**I. BACKGROUND**

**Newport Ridge Park.** The County of Orange Planning Commission approved Planning Application No. PA95-0043 on March 30, 1995, for a site development permit to establish a 26-acre local park (Newport Ridge Park). The approval included grading and landscaping with the following major attractions: a sand volleyball court, a family picnic area, shade

structures, play equipment, two (2) outdoor basketball courts, two (2) outdoor tennis courts, a multi-purpose sports field, restrooms, and connecting walkways.

**Pickleball Popularity.** The sport of pickleball continues to rise in popularity among Newport Beach residents and is one of the fastest growing sports in the country. In Fall 2017, the City constructed four (4) dedicated pickleball courts at Bonita Canyon Sports Park Field No. 6 to address the growing community need and interest in the sport. As the sport continues to gain momentum as a mainstream recreational activity, the outdoor courts at Bonita Canyon Sports Park have become heavily impacted and do not meet the increasing demand for available court time. Adding new courts in the City would help fulfill the public demand for more open court times and could also support recreational programs such as league play, group/private lessons and tournaments for all skill levels and ages.

**NRCA and City Partnership.** The Newport Ridge Community Association (NRCA) approached the City to partner in the development of pickleball courts at Newport Ridge Park. The park is owned and managed by NRCA and presents itself as the most viable park location in the City that meets important site conditions:

1. Distanced from homes to diminish potential noise impacts from pickleball play.
2. Existing parking that is sufficient to support the new recreational amenity.
3. Does not displace or impact any existing recreational programs.

**Lease Agreement.** City staff is in the process of negotiating a thirty (30)-year lease with NRCA for use of land in exchange for development and maintenance costs of eight (8) pickleball courts along the eastern edge of the park, adjacent to Newport Coast Community Center parking lot. Per the agreement, the City will fund, design and construct eight (8) courts. Six (6) courts of which will be maintained and operated for public use. The remaining two (2) courts will be dedicated for NRCA use. In June 2021, the Parks, Beaches & Recreation (PB&R) Commission appointed three (3) commissioners to serve on the Newport Ridge Park Pickleball Courts Ad Hoc Committee to assist with conceptual design and community outreach. The Ad Hoc Committee, NRCA Board Members, Recreation & Senior Services and Public Works Departments have worked collectively to develop plans for the eight (8) unlit courts and site amenities.

**Proposed Improvements.** The outdoor pickleball courts are designed to USA Pickleball Association (USAPA) specifications and the site will be furnished with shaded viewing areas, benches, trash cans, a bike rack and a bottle filling station. The two (2) northernmost courts will be fitted with a key fob system securing and limiting these two courts for NRCA resident access and use. The existing Newport Coast Community Center parking lot (122 spots) and restrooms will be utilized to support public use of the site. NRCA pickleball players will also have access to their community association parking lot and restrooms along the western edge of the park. In December 2021, the PB&R Commission voted to approve and forward design plans to City Council for final approval. On March 31, 2022, the Newport Ridge Community Association Board of Directors noticed their membership about the project and design parameters (Attachment No. CD 4) and received no opposition to the project.

## II. FINDINGS AND FACTS

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new use permit application. This staff approval is based on the following findings and facts in support of the findings. In this case, the Director determined the proposed changes:

### Finding:

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

### Facts in Support of Finding:

1. Newport Ridge Park will continue to be utilized as a recreational use. The outdoor pickleball courts are typical accessory uses within a recreational park and are permitted within Area 10 of PC53 (Newport Coast Planned Community Text) designated for the subject property.
2. The Project provides new public accommodations in the form of outdoor pickleball courts to serve the recreational needs of Newport Beach's visitors and residents. The Project design will enhance the Recreation and Senior Services Department's service capabilities to fulfill the public need for more open court times and could also support recreational programs such as league play, group/private lessons and tournaments for all skill levels and ages.
3. Pursuant to Chapter X (Permit Regulations and Procedures) of the Newport Ridge Planned Community (PC53), a Changed Plan may make minor amendments or changes regarding the location or alteration of any use or structure and may be approved by the Planning Director pursuant to Orange County Zoning Code Section 7-9-150.3. The property has since been annexed to the City. The City Community Development Director serves in the capacity of the Planning Director.
4. The Project emphasizes a use that enables Newport Beach to continue as a self-sustaining community. The Project minimizes the need for residents to travel outside of the community to look for recreational services. The pickleball courts will complement existing recreational infrastructure at Newport Ridge Park and the Newport Coast Community Center.
5. The Project would adhere to interior and exterior noise standards of the Municipal Code. Per Condition of Approval No. 8, all noise generated by the Project must comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
6. The pickleball courts are unlit, unenclosed, and do not increase the total square footage or overall capacity for the project. The proposed changes are consistent

with the applicable conditions of approval of the original County Site Development Permit No. PA95-0043.

7. Sufficient parking will continue to be available to serve all uses on-site. The outdoor pickleball courts would not reduce existing parking. An on-site parking lot with 66 spaces (including accessible stalls) is adjacent to the multipurpose field. The 122 parking spaces at Newport Coast Community Center will also remain useable to serve the site.

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. No square footage or other new sports facilities are proposed at Newport Ridge Park. The pickleball courts and new park amenities will provide for existing patrons and will not result in excessive increased daily trips to the site.
2. The outdoor pickleball courts will replace an existing portion of a baseball field and does not involve grading of any previously undisturbed land.
3. There is no substantial evidence that the proposed pickleball courts will have any significant adverse impacts upon the environment. Final Environmental Impact Report (EIR) 517, certified on February 26, 1991, was determined adequate to serve as a Program EIR for Site Development Permit No. PA95-0043. The pickleball courts do not affect any basis for findings or Applicable Mitigation Measures of Final EIR 517 for PA95-0043.

Finding:

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

Facts in Support of Finding:

1. The proposed changes do not negatively impact a feature that was specifically addressed in staff reports or minutes prepared for Planning Application No. PA95-0043. The recreational park was approved to serve the public with sports courts, picnic areas, and play structures. The proposed pickleball courts and park amenities do not substantially change the operation of the use, traffic, or parking for the site as was originally authorized under the original Site Development Permit No. PA95-0043.

2. Condition of Approval No. 3 in Site Development Permit No. PA95-0043 authorizes changes to the approved plan, including location and alteration of any use or structures, provided the change complies with the provisions and spirit and intent of the approval action and that the action would have been the same for the changed plan as the approved plan. In this case, the proposed change involves removing an existing baseball field to accommodate eight (8) pickleball courts, which are common recreational amenities in public and private parks today. If the sport had the popularity as it does today, it is reasonable to assume that the pickleball courts would have been included at the time the park was originally developed. As a result, altering the existing baseball field to accommodate pickleball courts complies with the original approval's provisions, intent, and spirit.
3. The proposed pickleball courts do not result in any additional impacts beyond those analyzed prior to original project approval as documented in Planning Application No. PA95-0043. The project does not displace or impact any existing recreational programs, but serve to enhance existing amenities for residents and visitors of Newport Beach.
4. No conflict exists between the project and identified Natural Community Conservation Planning (NCCP) area. Development of the courts and park amenities are on an existing baseball field and adheres to the mitigation measures and conditions of approval of the approved park.
5. The proposed outdoor pickleball courts are approximately 300 feet away from the nearest residential use and separated by San Joaquin Hills Road. Existing parking is sufficient to support the new recreational amenity. Since the courts are unlit and no amplified noise is permitted, negative impacts to residential uses are not anticipated.
6. Off-street parking will be maintained as established in the County of Orange Zoning Code. The Director has determined sufficient parking will be provided in the existing 122-space surface parking lot at Newport Coast Community Center and 66-space surface parking lot at Newport Ridge Park.

Finding:

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

Facts in Support of Finding:

1. The Project's size and operational characteristics complement the existing park amenities such as the tennis and basketball courts on-site. The addition of the pickleball courts will not result in a change in the operational characteristics of the park but will instead provide additional amenities to complement the existing facilities. The pickleball courts are typical athletic facilities found at parks.
2. The Recreation and Senior Services Department, Public Works Department, and the Parks, Recreation, and Beach Commission reviewed the application. The

Project is required to obtain all applicable permits from the appropriate City Departments and must comply with the most recent, City-adopted version of the California Building Code.

### **III. DETERMINATION**

The Community Development Director determined that the proposed pickball courts and park amenities are consistent with the plans approved by the Orange County Planning Commission in conjunction with the review and approval of Planning Application No. PA95-0043.

### **IV. CONDITIONS**

1. The development shall be in substantial conformance with the approved site plan, floor plans, materials board, and elevations stamped and dated with the date of this approval (except as modified by these conditions of approval).
2. The development shall be in substantial conformance with all applicable conditions of the County of Orange's Site Development Permit No. PA95-0043.
3. The use of amplified sound within the outdoor pickleball courts area shall be prohibited.
4. This approval shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
5. The Applicant is required to obtain a building permit from the City's Building Division and Fire Department. 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.
6. The Applicant shall comply with all project design features, mitigation measures, and standard conditions contained within the approved Mitigation Monitoring Reporting Program (MMRP) as approved by the County of Orange in Planning Application No. PA95-0043 for the project.
7. Any modification to the parking lot and/or number of parking spaces shall be reviewed and approved by the Planning Division.
8. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code (NBMC). The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:



Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

9. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of the **Newport Ridge Park Pickleball Courts** including, but not limited to, **Staff Approval No. SA2022-003 (PA2022-091)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**APPEAL PERIOD:** An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

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

By:

  
 Patrick Achis  
 Assistant Planner

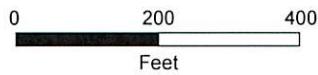
JC / pda

- Attachments: CD 1 Property’s Legal Depiction  
 CD 2 Vicinity Map  
 CD 3 Excerpt of PA95-0043 Conditions of Approval and Findings  
 CD 4 Project Plans

# **Attachment No. CD 1**

Property's Legal Depiction

EXHIBIT "A"  
DEPICTION OF NRCA PROPERTY



**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.

3/23/2021

# **Attachment No. CD 2**

Vicinity Map



# VICINITY MAP



Staff Approval No. SA2022-003  
PA2022-091

**6331 East Newport Ridge Drive**

# **Attachment No. CD 3**

Excerpt of PA95-0043 Conditions of  
Approval and Findings



County of Orange

# MEMO

FILE: PA 95-0043

DATE:

TO: File/Record/Applicant

FROM: Michael M. Ruane, Director EMA

SUBJECT: Planning Application PA 95-0043 for Site Development Permit

APPLICANT: Coastal Community Builders

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## I. NATURE OF PROJECT:

Site plan approval for development of a local park (Newport Ridge Local Park) in Planning Area 10 of the San Joaquin Hills Planned Community (marketed and more commonly known as Newport Ridge). Planning Area 10 has a land use designation of R "Recreation" and the proposed park is a permitted use subject to the approval of a Site Development Permit. The 26 acre park, in addition to grading and landscaping has the following major attractions: a sand volleyball court; a family picnic area with four picnic tables; a group picnic area with shade structure; a tot lot/play area with play equipment; two basketball courts; two tennis courts; a multipurpose field that can be configured into a soccer field or two softball fields; a restroom; and, connecting walkways with seating areas throughout the park. A parking lot with 66 spaces (including three handicapped spaces) is located adjacent to the multipurpose field.

Newport Ridge Park is located on the north side of San Joaquin Hills Road and is bordered by Newport Ridge Drive East and the now closed Coyote Canyon Landfill. Park construction is by Coastal Community Builders and the maintenance will be the responsibility of the Newport Ridge community associations. This park and two view parks located in Planning Area 17 (Planning Application PA 95-0044) satisfies the local park requirements for the San Joaquin Hills Planned Community.

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## II. REFERENCE: (Authority for Administrative action is given by what ordinance, regulation, etc.)

San Joaquin Hills Planned Community Chapters IV and X; and, Orange County Zoning Code Section 7-9-150.

III. ENVIRONMENTAL DOCUMENTATION:

The proposed project is covered by Final EIR 517. Section V of this report contains the required CEQA Finding.

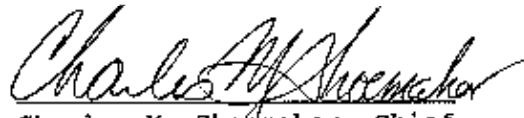
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IV. CERTIFICATION:

I hereby certify that the subject proposal has been Conditionally Approved as noted below.

Michael M. Ruane, Director EMA

By:   
Charles M. Shoemaker, Chief  
Site Planning Section

Date: 3/30/95

WVM

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V. FINDINGS:

- I. The use or project proposed is consistent with the objectives, policies, general land uses and programs specified by the General Plan.
- II. The use, activity or improvement(s) proposed, subject to the specified conditions, is consistent with the provisions of the Zoning Code and the San Joaquin Hills Planned Community regulations applicable to the property.
- III. Final EIR 517, previously certified on February 26, 1991, was considered prior to approval of the project, was determined adequate to serve as a Program EIR for this project, and satisfies all the requirements of CEQA.
- IV. The location, size, design and operating characteristics of the proposed use will not create unusual noise, traffic or other conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.



- V. The application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.
  - VI. That the permit would not allow development of a project that would contribute to the need for a fire station or library facility for which a fee is required, as that term is defined in Section 7-9-701.
  - VII. That the proposed use will not significantly change the traffic generation characteristics of the existing use, with respect to the San Joaquin Hills Transportation Corridor Major Thoroughfare and Bridge Fee Program, thus corridor fees are found not to be appropriate in this instance.
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VI. CONDITIONS:

- 1. LU NA NA BASIC/ZONING REGULATIONS  
This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance of approval of the project regarding any other applicable ordinance, regulation or requirement.
- 2. LU NA NA BASIC/TIME LIMIT  
This approval is valid for a period of 24 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.
- 3. LU NA NA BASIC/PRECISE PLAN  
Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director-EMA for approval. If the Director determines that the proposed change complies with the provisions and the spirit and intent of the approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.
- 4. LU NA NA BASIC/COMPLIANCE  
Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

5. LU NA NA BASIC/OBLIGATIONS  
Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit or, in the alternative, the relinquishment of such permit. Applicant will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of any such action, but such participation shall not relieve applicant of his obligations under this condition.
6. DS DS G GEOLOGY RPT  
Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Development Services, for approval. The report shall include the information and be in a form as required by the Grading Manual.
7. DS DS G GRADING DEVIATION  
Prior to the issuance of any grading permits, if review of the grading plan for this property by the Manager, Development Services, indicates significant deviation from the proposed grading illustrated on the approved tentative tract map, specifically with regard to slope heights, slope ratios, and pad elevations and configuration, the plan shall be reviewed by the Subdivision Committee for a finding of substantial conformance. Failure to achieve such a finding will require processing a revised tentative tract map; or, if a final tract/parcel map has been recorded, a new tentative tract/parcel map or a site development permit application per Orange County Zoning Code Section 7-9-139 and 7-9-150.
8. HP HP GR GRADING ADJ PRK  
Prior to the recordation of the first final tract/parcel map or issuance of the first grading permit for projects located immediately adjacent to or including portions of regional parks, significant open space corridors, or other environmentally sensitive areas, the project proponent shall provide evidence acceptable to the Manager, Development Services, in consultation with the Manager, HB&P/Program Planning, that graded areas will be compatible with natural land characteristics of the adjacent areas. Treatment to achieve the desired effect shall include:
- A. Smooth and gradual transition between graded slopes and existing grades using variable slopes ratios (2:1-4.1); and
  - B. Urban Edge Treatment/Landscaping Plan(s) for all graded areas adjacent to open space; and
  - C. Incorporating architectural and design techniques into the project in order to enhance off-site views attained from within parks and other environmentally sensitive areas.
9. EP DS G EROSION CONTROL  
Prior to the issuance of grading permits, the project proponent shall submit to the Manager, Development Services, for review and approval, an Erosion Control Plan.

10. F F G WATER IMPV PLANS  
Prior to the issuance of grading permits, water improvement plans shall be submitted to and approved by the Fire Chief to ensure adequate fire protection and financial security is posted for the installation. The water system design, location of valves, and the distribution of fire hydrants will be evaluated and approved by the Fire Chief.
  
11. F F B COMBSTELE CONST  
Prior to the issuance of any building permits for combustible construction, a letter and plan from the developer shall be submitted to and approved by the Fire Chief. This letter and plan shall state that water for fire fighting purposes and an all weather fire access road shall be in place before any combustible materials are placed on the site.
  
12. F F B WATER AVAILABILITY  
Prior to the issuance of any building permits, an Orange County Fire Department Water Availability Form shall be submitted to and approved by the Engineering Section of the Orange County Fire Department. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system shall be installed in each structure.
  
13. F F U FIRE HYDRANT MARKER  
Prior to the issuance of any certificates of use and occupancy, all fire hydrants shall have a "Blue Reflective Pavement Marker" indicating its location on the street or drive per the Orange County Fire Department Standard. On private property these markers are to be maintained in good condition by the property owner.
  
14. F F B BUILDING USE  
Prior to the issuance of any building permits, the applicant shall submit a detailed letter of intended use for each building to the Fire Chief.
  
15. F F G STREET PLANS  
Prior to the issuance of any grading permits, plans for all street and courts, public or private, shall be submitted to and approved by the Fire Chief. The plans shall include sectional view, and indicate the width measured flow line to flow line. All proposed fire apparatus turnarounds shall be clearly marked.
  
16. F F R FIRE HAZARD  
Prior to the recordation of a final tract/parcel map, a note shall be placed on the map meeting the approval of the Fire Chief that the property is in a (high) fire hazard due to wildland exposure.
  
17. F F GB FUEL MOD PLAN  
Prior to the issuance of any grading permits, a fuel modification plan and program shall be submitted and approved by the Fire Chief. Contact the Wildland Fire Defense Planning Section at 744-0498 for requirements and clearance of this condition. The plan shall indicate the proposed means of achieving an acceptable level of risk to structures by vegetation. Include the method (mechanical or hand labor) for removal of flammable vegetation

and the planting of drought tolerant fire resistant plants. The approved fuel modification plan shall be installed prior to the issuance of building permits, under the supervision of the Fire Chief, and completed prior to the issuance of any use and occupancy permits. The CCER's shall contain provision for maintaining the fuel modification zones including the removal of all dead and dying vegetation and the inspection and correction of any deficiencies in the irrigation system three times a year.

18. TE TE G SPECIAL - DRIVEWAY  
Prior to the issuance of grading permits, the driveway located along San Joaquin Hills Road near its intersection with Newport Coast Drive shall be removed and replaced with curb, gutter and sidewalk in a manner meeting the approval of the Manager, Traffic Engineering.

19. BP BP G CONST NOISE

A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits, that:

(1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.

(2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise Control).

(3) Stockpiling and/or vehicle staging areas shall be located as far as practicable from dwellings.

B. Notations in the above format, appropriately numbered and included with other notations on the front sheet of grading plans, will be considered as adequate evidence of compliance with this condition.

20. EP HP G PALEO GRD OBS

If required by the Manager, HB&P/Program Planning, prior to the issuance of a grading permit, the project applicant shall provide written evidence to the Manager, Development Services, that a County-certified paleontologist has been retained to observe grading activities and salvage and catalogue fossils as necessary.

21. EP BP B LIGHT AND GLARE

Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building Permits.

22. ER SD B POLLUTANT RUNOFF

Prior to issuance of building permits, permit applicant shall submit for approval of the Manager, Development Services, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used on site to control predictable pollutant runoff.

23. HP BI U

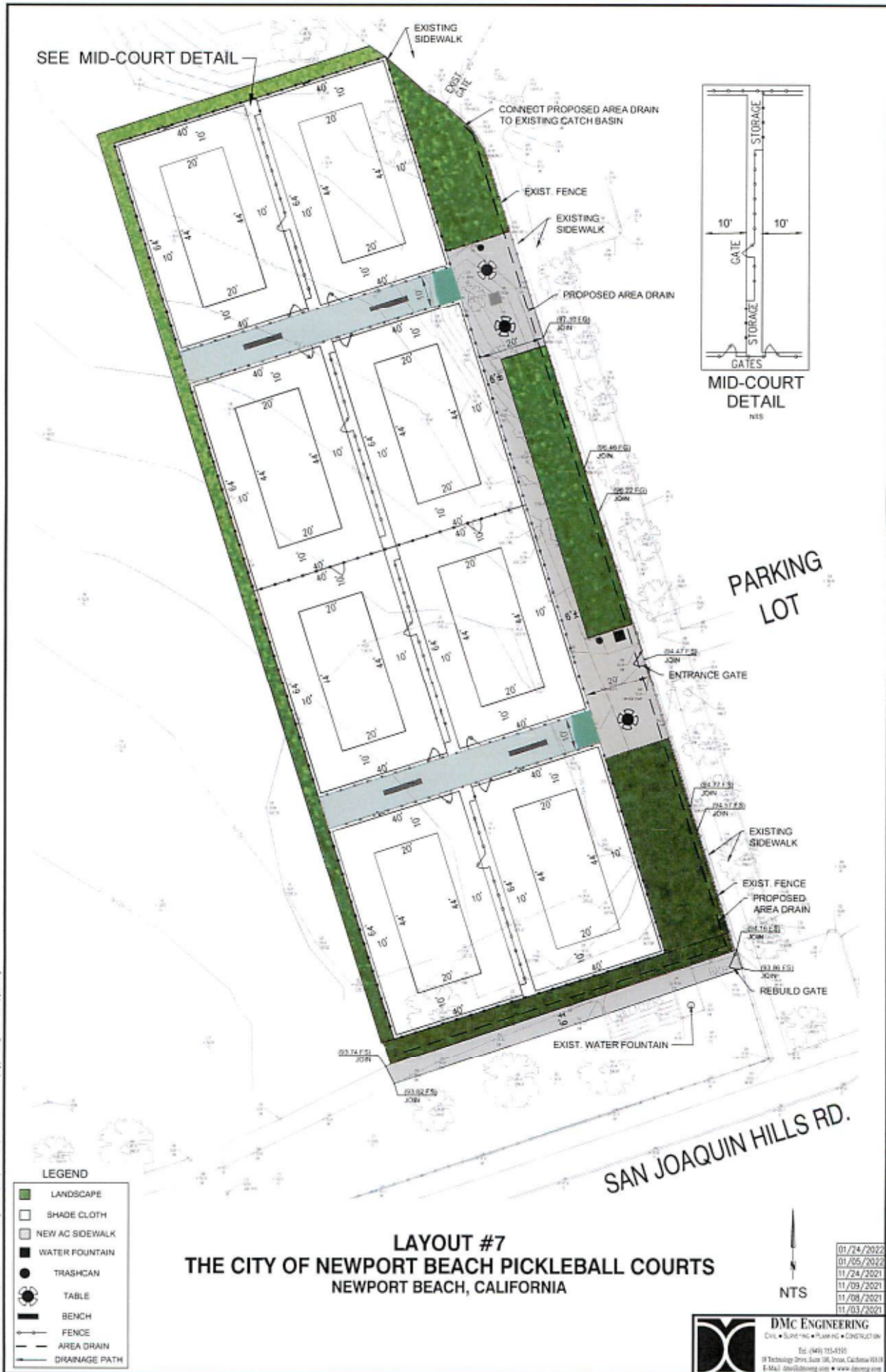
PVT LANDSP

Prior to the issuance of certificates of use and occupancy, landscape plans for privately maintained landscape areas shall be prepared by a licensed landscape architect taking into account an approved preliminary landscape plan (if any), EMA Standard Plans, adopted planned community, scenic corridor and specific plan requirements, Grading and Excavation Code, recreation trail and erosion control requirements, Subdivision Code, Zoning Code, conditions of approval, Water Conservation Measures contained in Board Resolution 90-487 (Water Conservation Measures), and Board Resolution 90-1341 (Water Conservation Implementation Plan). The plans shall be certified by the landscape architect or the licensed landscape contractor, as applicable, as to compliance with said requirements. Furthermore, applicant shall have installed said landscaping and irrigation system and shall have a licensed landscape architect verify that the landscaping and irrigation system was installed in accordance with the certified plan. Applicant shall furnish a landscape plan certification and installation verification, including an irrigation management report for each landscape irrigation system, and any other required implementation report determined applicable, in writing to the Manager, Building Inspection, prior to the issuance of any certificates of use and occupancy.

# **Attachment No. CD 4**

Project Plans

EXHIBIT "C" DRAFT DEPICTION OF COMPLEX



**LAYOUT #7**  
**THE CITY OF NEWPORT BEACH PICKLEBALL COURTS**  
 NEWPORT BEACH, CALIFORNIA

01/24/2022  
 01/05/2022  
 11/24/2021  
 11/09/2021  
 11/08/2021  
 11/03/2021

**DMC ENGINEERING**  
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 E-Mail: dmc@dmce.com • www.dmceng.com

Drawing Name: C:\PROJECTS\2021\Newport Beach-Pickleball Courts\Drawings\10-01\_Pickleball Court Layout 7.dwg  
 Plotted: Jan 24, 2022 - 4:56pm by Steve