

CALIFORNIA COASTAL COMMISSION

South Coast District Office
301 E Ocean Blvd., Suite 300
Long Beach, CA 90802-4302
VOICE (562) 590-5071



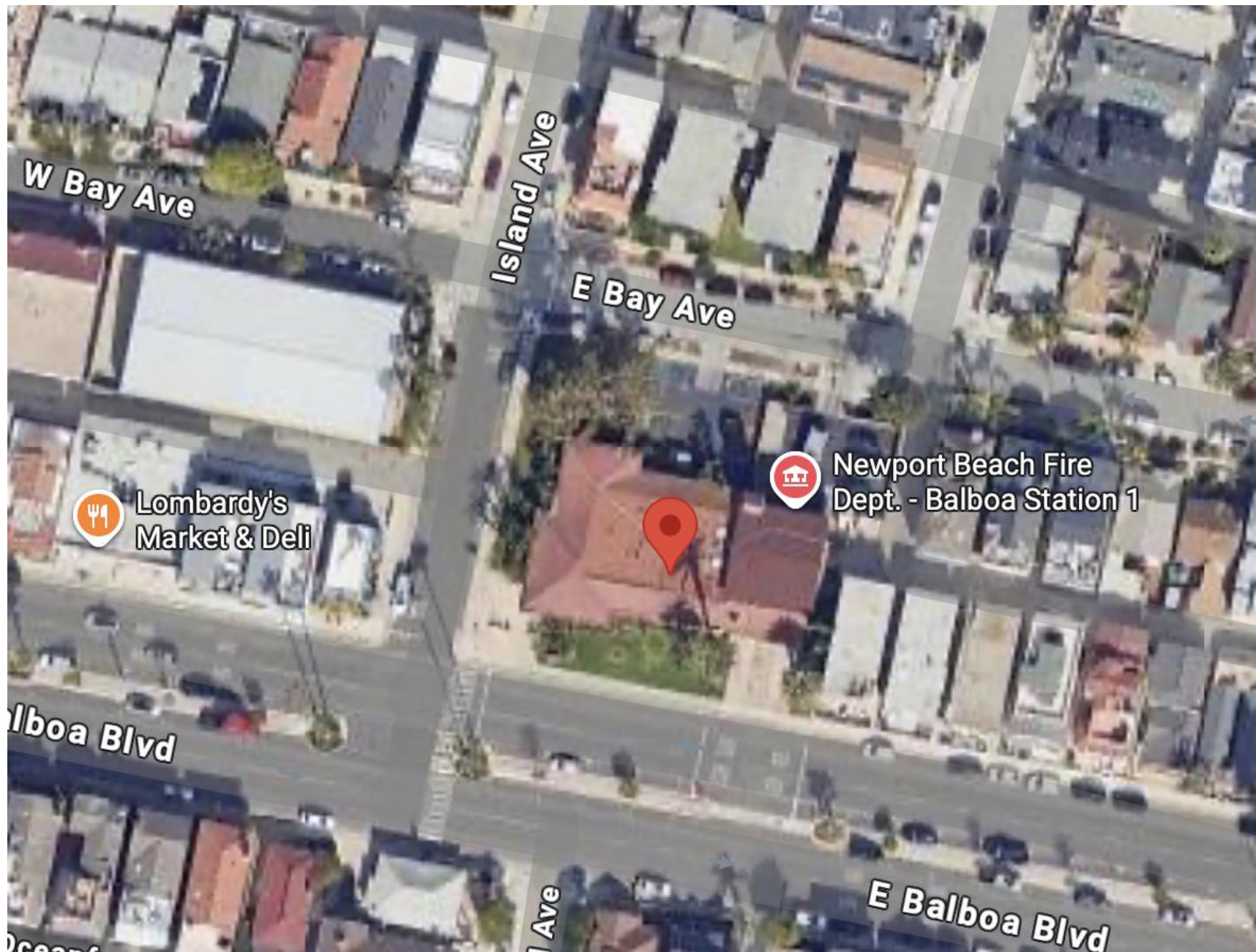
W11d

A-5-NPB-24-0047 (City of Newport Beach, Department of Public Works)

December 10, 2025

EXHIBITS





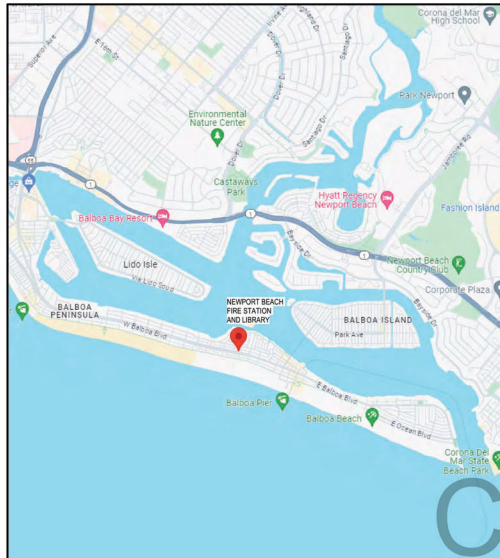
ATTACHMENT E

NEWPORT FIRE STATION AND LIBRARY

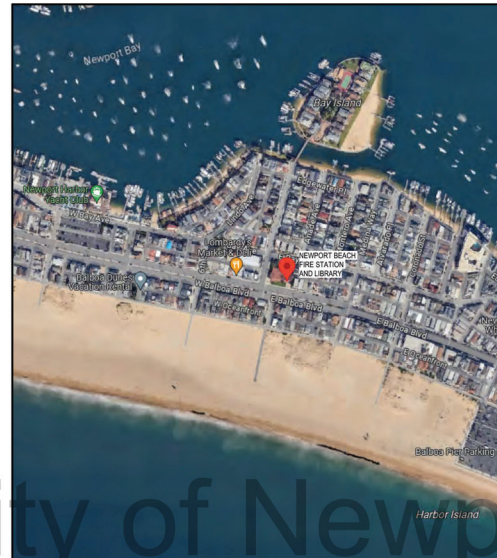
110 E BALBOA BLVD, NEWPORT BEACH, CA 92661



LOCATION MAP



VICINITY MAP



PROJECT DATA

PROJECT ADDRESS:	110 E BALBOA BLVD NEWPORT BEACH, CA 92661
ASSESSOR'S PARCEL NO.:	048-072-24
OWNER:	CITY OF NEWPORT BEACH 100 CIVIC CENTER DRIVE NEWPORT BEACH, CA 92660 (949)444-3200
GOVERNING AGENCY:	CITY OF NEWPORT BEACH 100 CIVIC CENTER DRIVE NEWPORT BEACH, CA 92660 (949)444-3200
GOVERNING CODES:	2022 CALIFORNIA BUILDING CODE 2022 CALIFORNIA MECHANICAL CODE 2022 CALIFORNIA PLUMBING CODE 2022 CALIFORNIA ELECTRICAL CODE 2022 CALIFORNIA FIRE CODE 2022 CALIFORNIA ENERGY CODE
SCOPE OF WORK:	DEMOLITION OF EXISTING 2-STORY FIRE STATION AND LIBRARY. NEW 2-STORY FIRE STATION AND LIBRARY BUILDING
OCCUPANCY GROUP:	MIXED USE: A-3, B, R-2, S-2
CONSTRUCTION TYPE:	V-B
ALLOWABLE BLDG AREA:	
A-3	24,000 S.F.
B	36,000 S.F.
R-2	28,000 S.F.
S-2	54,000 S.F.
ACTUAL BLDG AREA:	
FIRST FLOOR	8,728 S.F.
SECOND FLOOR	2,149 S.F.
TOTAL BUILDING AREA	10,877 S.F.
ACTUAL AREA:	
A-3 ACTUAL:	2,896 S.F.
B ACTUAL:	1,476 S.F.
R-2 ACTUAL:	1,881 S.F.
S-2 ACTUAL:	2,474 S.F.
SITE AREA:	26,115 S.F. (60 ACRES)
NUMBER OF STORIES:	2
MAX BUILDING HEIGHT:	33' - 6"
PARKING:	
Parking Provided:	Public: No Requirement
Parking Required:	
Accessible Parking Spaces:	1
EV Accessible Parking Spaces:	1
Standard Parking Spaces:	8
EV Standard Parking Spaces:	3
Standard Parking Spaces (Private):	3
Total:	16

LEGAL DESCRIPTION

LOTS 1, 2 AND 3 IN BLOCK 2, LOTS 11 AND 12 IN BLOCK 1, AND THE EASTERLY 30 FEET LOT 1 IN BLOCK 3, IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, ALL IN EAST NEWPORT AS PER MAP ON FILE IN BOOK 3, PAGE 37 OF MISCELLANEOUS MAPS, RECORDS OF ORANGE COUNTY, CALIFORNIA.

TOGETHER WITH THAT VACATED PORTION OF 1ST STREET AND ALLEY, TITLE TO WHICH WOULD PASS BY THE CONVEYANCE DESCRIBING SAID LOTS AS RECORDED IN RESOLUTION NO. 377, RECORDED FEBRUARY 24, 1931 IN BOOK 340, PAGE 130; RESOLUTION NO. 354, RECORDED FEBRUARY 3, 1931 IN BOOK 458, PAGE 136; RESOLUTION NO. 377, ALSO RECORDED APRIL 10, 1931, IN BOOK 476, PAGE 4 AND RESOLUTION NO. 5312, RECORDED SEPTEMBER 29, 1960 IN BOOK 5440, PAGE 45, ALL OF OFFICIAL RECORDS.

PARCEL: 048-072-02 & 048-072-24

NOTE:

A REGISTERED CALIFORNIA ARCHITECT, CIVIL OR STRUCTURAL ENGINEER SHALL OBSERVE THE WORK OF CONSTRUCTION AND SUBMIT AFFIDAVITS ATTESTING TO THE COMPLIANCE OF THE CONSTRUCTION WITH THE APPROVED CONTRACT DOCUMENTS.

PROJECT TEAM

ARCHITECTURE COAR DESIGN GROUP 9640 GRANITE RIDGE DR., SUITE 130 San Diego, CA 92123 (619) 698-9177 Contact: Jeff Katz, AIA jeff@coargroup.com	PLUMBING MCPARLANE ENGINEERS 4830 VIEWBRIDGE AVENUE, SUITE A San Diego, CA 92123 (619) 727-9721 Contact: Doug Isaaks, P.E. disaaks@mcparlane.com
CIVIL DELANE ENGINEERING 2812 SANTA MONICA BLVD., SUITE 206 Santa Monica, CA 90404 (310) 299-7857 Contact: Daren Poon dpoor@delanegroup.com	ELECTRICAL ELEN CONSULTING 9150 CHESAPEAKE DRIVE, SUITE 220 San Diego, CA 92123 (619) 550-1085 Contact: Robert Morris rmorris@elenconsulting.com
STRUCTURAL ZFA STRUCTURAL ENGINEERS 1212 FOURTH STREET, SUITE 2 Santa Rosa, CA 95404 (707) 526-0992 Contact: Luke Wilson lukew@zfa.com	LANDSCAPE PATERRE 1221 HAYES AVE. San Diego, CA 92103 (619) 294-3713 Contact: Patrick O'Connor pat@paterre.com
MECHANICAL MCPARLANE ENGINEERS 4830 VIEWBRIDGE AVENUE, SUITE A San Diego, CA 92123 (619) 727-9721 Contact: Doug Isaaks, P.E. disaaks@mcparlane.com	GEOTECHNICAL ENGINEER GEOCON WEST, INC. 2807 MCGRAW AVENUE Irvine, CA 92614 (949) 491-6570 Contact: Patricia Zen zen@gcoconinc.com

PROJECT:

CITY OF NEWPORT BEACH

NEWPORT BEACH FIRE

STATION & LIBRARY

110 E BALBOA BLVD
NEWPORT BEACH, CA 92661

DESCRIPTION:

DRT 50% DESIGN

DEVELOPMENT

50% DESIGN

DEVELOPMENT

DATE:

07/22/24

08/12/24

NOT FOR
CONSTRUCTION

PROJECT NUMBER:

230101

SHEET TITLE:

TITLE SHEET

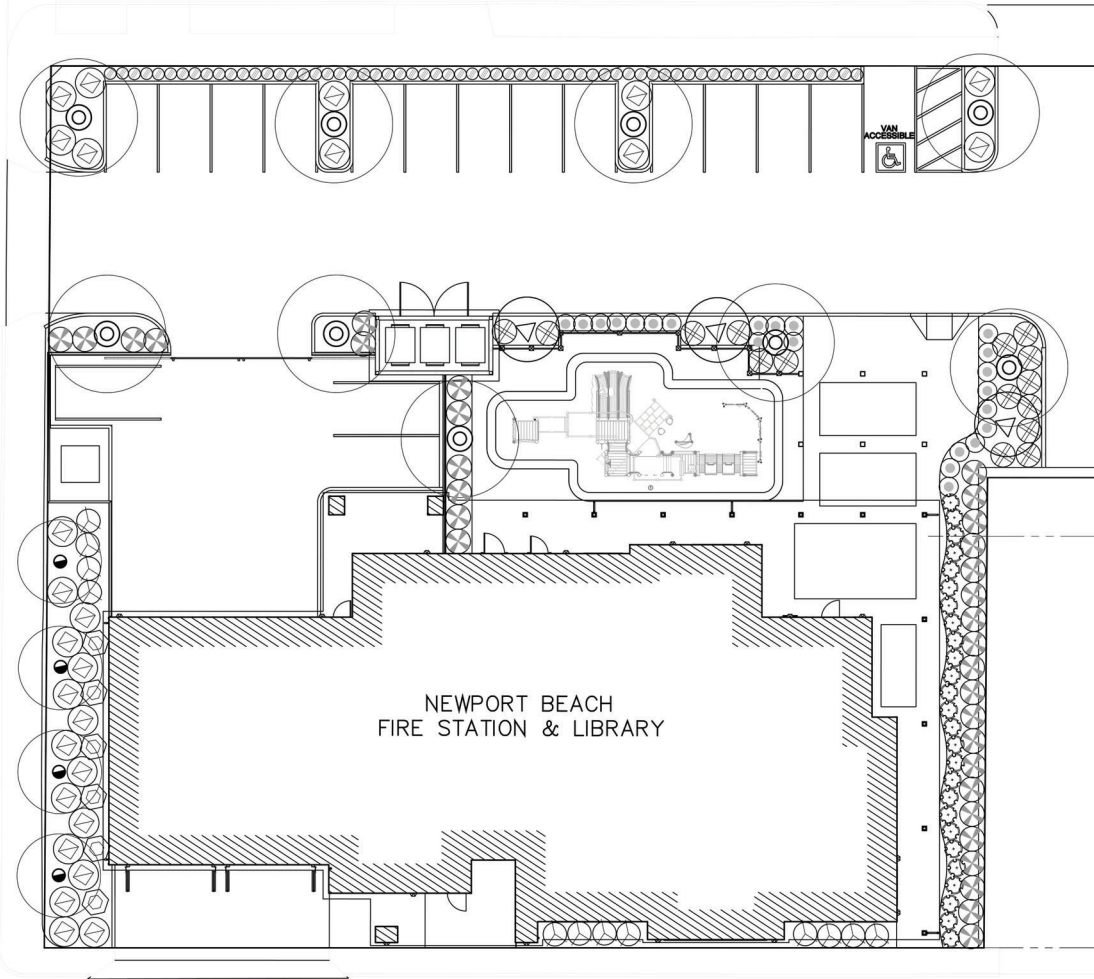
SHEET NUMBER:

T-1

16-42

ISLAND AVENUE

EAST BAY AVENUE



EAST BALBOA BOULEVARD

SEE SHEET L2.1 FOR
PLANT MATERIAL SYMBOLS

City of Newport Beach



0 10' 20' 40'
SCALE: 1" = 10'-0"

LANDSCAPE IMPROVEMENTS GENERAL NOTES

1. THE CONTRACTOR SHALL VERIFY WITH THE ENGINEER THAT PLANS ARE CURRENT AND APPROVED.
2. LANDSCAPE IMPROVEMENTS SHALL BE IN ACCORDANCE WITH THE LANDSCAPE PLANS, SPECIFICATIONS AND REQUIREMENTS OF THE CITY OF NEWPORT BEACH LANDSCAPE DESIGN STANDARDS.
3. THE CONTRACTOR SHALL COMPLY WITH THE ENGINEERING SOILS REPORT RECOMMENDATIONS AS RELATE TO HIS WORK.
4. THE CONTRACTOR SHALL OBTAIN ALL NECESSARY AND/OR REQUIRED PERMITS AND PAY ALL RELATED FEES AND/OR TAX REQUIRED TO INSTALL THE WORK ON THESE PLANS.
5. THE CONTRACTOR SHALL BE APPROPRIATELY LICENSED AS REQUIRED BY THE STATE OF CALIFORNIA.
6. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IMMEDIATELY OF ANY ERRORS, OMISSIONS OR DISCREPANCIES IN EXISTING CONDITIONS OR WITH THE PLANS PRIOR TO BEGINNING THE WORK.
7. DETERMINATION OF "EQUAL" SUBSTITUTIONS SHALL BE MADE ONLY BY THE ENGINEER.
8. THE LANDSCAPE ARCHITECT OF RECORD, AND THE ENGINEER SHALL BE NOTIFIED NO LESS THAN 48 HOURS IN ADVANCE OF THE START OF CONSTRUCTION, ANY SITE OBSERVATION, OR MEETINGS. SITE OBSERVATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO:
 - A. PRE-CONSTRUCTION MEETING
 - B. LANDSCAPE GRADING AND SOIL AMENDING.
 - C. LANDSCAPE CONSTRUCTION.
 - D. SPOTTING OF SPECIMEN PLANTS.
 - E. IRRIGATION PRESSURE AND COVERAGE TEST.
 - F. PLANTING AND/OR HYDROSEEDING.
 - G. PRE-MAINTENANCE.
 - H. POST MAINTENANCE (FINAL).NOTE: "LANDSCAPE" SHALL REFER TO ALL IMPROVEMENTS WITHIN THIS SET OF DOCUMENTS THAT HAVE BEEN DESIGNED BY PARTERRE.
9. SITE OBSERVATIONS BY THE ENGINEER DURING ANY PHASE OF THIS PROJECT DO NOT RELIEVE THE CONTRACTOR OF HIS PRIMARY RESPONSIBILITY TO PERFORM ALL WORK IN ACCORDANCE WITH THE PLANS, SPECIFICATIONS AND GOVERNING CODES.
10. THE CONTRACTOR SHALL REPLACE ALL TREES, SHRUBS AND GROUND COVERS NOTED TO REMAIN IN PLACE DAMAGED BY PLANTING OR OTHER CONSTRUCTION OPERATIONS. THE GENERAL CONTRACTOR SHALL ALSO REPAIR OR REPLACE EXISTING IRRIGATION SYSTEMS DAMAGED BY CONSTRUCTION OPERATIONS.
11. THE CONTRACTOR SHALL PROVIDE PLANTING ESTABLISHMENT AND FULL MAINTENANCE OF ALL LANDSCAPE AREAS FOR A PERIOD OF 90 DAYS AFTER INITIAL WRITTEN CITY APPROVAL. CONTRACTOR SHALL GUARANTEE TREES AND IRRIGATION EQUIPMENT FOR A PERIOD OF ONE FULL YEAR AFTER WRITTEN ACCEPTANCE OF INSTALLATION. SEE SPECIFICATIONS FOR ADDITIONAL REQUIREMENTS.
12. CONTRACTOR SHALL SUBMIT AN AGRICULTURAL SUITABILITY AND FERTILITY ANALYSIS OF TWO (2) SAMPLE LOCATIONS TO BE DETERMINED BY THE ENGINEER AFTER DEMOLITION AND PRIOR TO PLANTING WORK. PLANTING REQUIREMENTS AND SOIL AMENDMENT SPECIFICATIONS ARE BASED ON A PRELIMINARY ANALYSIS OF ON-SITE SOILS.
13. THE LANDSCAPE CONTRACTOR SHALL PROVIDE A LETTER OF CERTIFICATION FOR WORK COMPLETED RELATED TO THE LANDSCAPE CONTRACT DOCUMENTS. THE LETTER SHALL SPECIFICALLY STATE THAT PLANTS WERE INSTALLED AS SPECIFIED AND THAT THE IRRIGATION SYSTEM WAS INSTALLED AS DESIGNED. THE LETTER SHALL BE SUBMITTED TO THE LANDSCAPE ARCHITECT OF RECORD PRIOR TO THE COMPLETION OF THE 60 DAY MAINTENANCE PERIOD.
14. THE LANDSCAPE CONTRACTOR IS RESPONSIBLE FOR SUBMITTING AN IRRIGATION AUDIT REPORT. THE AUDIT REPORT SHALL BE PREPARED BY A CERTIFIED LANDSCAPE IRRIGATION AUDITOR APPROVED BY THE OWNER'S REPRESENTATIVE. AUDIT MEMORANDUM AND SERVICES WILL INCLUDE ON SITE REVIEW WITH THE OWNER'S REPRESENTATIVE OF THE IRRIGATION SYSTEM, SYSTEM TUNE-UP, SYSTEM TEST WITH DISTRIBUTION UNIFORMITY, YEARLY IRRIGATION SCHEDULE, AND ASSOCIATED DATA PER IRRIGATION AUDIT INDUSTRY STANDARDS. THE REPORT SHALL BE SUBMITTED TO THE OWNER'S REPRESENTATIVE PRIOR TO BEGINNING THE MAINTENANCE PERIOD. COST FOR IRRIGATION AUDIT REPORT AND SERVICES SHALL BE PROVIDED BY THE CONTRACTOR.

coar
DESIGN GROUP

1840 GRANITE RIDGE DR. SUITE 100
SAN DIEGO, CA 92108
(619) 594-3717 | www.coardesign.com

PARTERRE

SITE PLANNING
URBAN DESIGN
LANDSCAPE ARCHITECTURE
1221 WYTHE AVENUE
SAN DIEGO, CALIFORNIA 92103
PHONE: (619) 236-3712

PROJECT:

CITY OF NEWPORT BEACH
NEWPORT BEACH FIRE
STATION & LIBRARY
110 E BALBOA BLVD
NEWPORT BEACH, CA 92661



DESCRIPTION:

50% DESIGN
DEVELOPMENT

DATE:

8/12/24

NOT FOR
CONSTRUCTION

PROJECT NUMBER:

202401

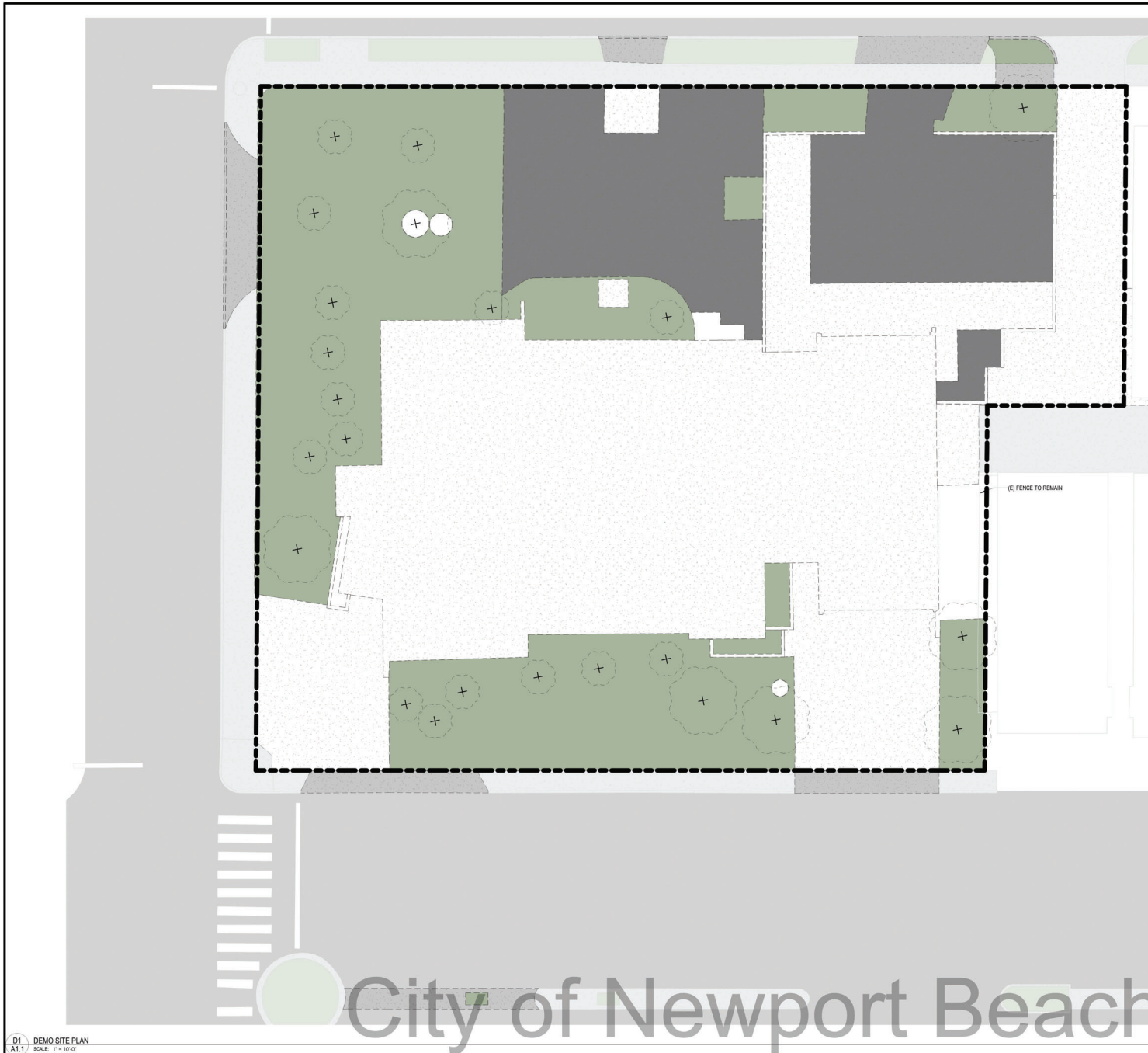
SHEET TITLE:

PLANTING PLAN
AND NOTES

SHEET NUMBER:

L2.0

16-50



CONSTRUCTION NOTES



PROJECT:
CITY OF NEWPORT BEACH
NEWPORT BEACH FIRE
STATION & LIBRARY
110 E BALBOA BLVD
NEWPORT BEACH, CA 92661



DESCRIPTION: DATE:
DRT 50% DESIGN DEVELOPMENT 07/22/24
50% DESIGN DEVELOPMENT 08/12/24

LEGEND

- PROPERTY LINE
- (+) (E) TREE TO BE REMOVED
- (E) ASPHALT TO BE REMOVED
- (E) CONCRETE TO BE REMOVED
- (E) PLANTING / MULCH TO BE REMOVED

NOT FOR
CONSTRUCTION

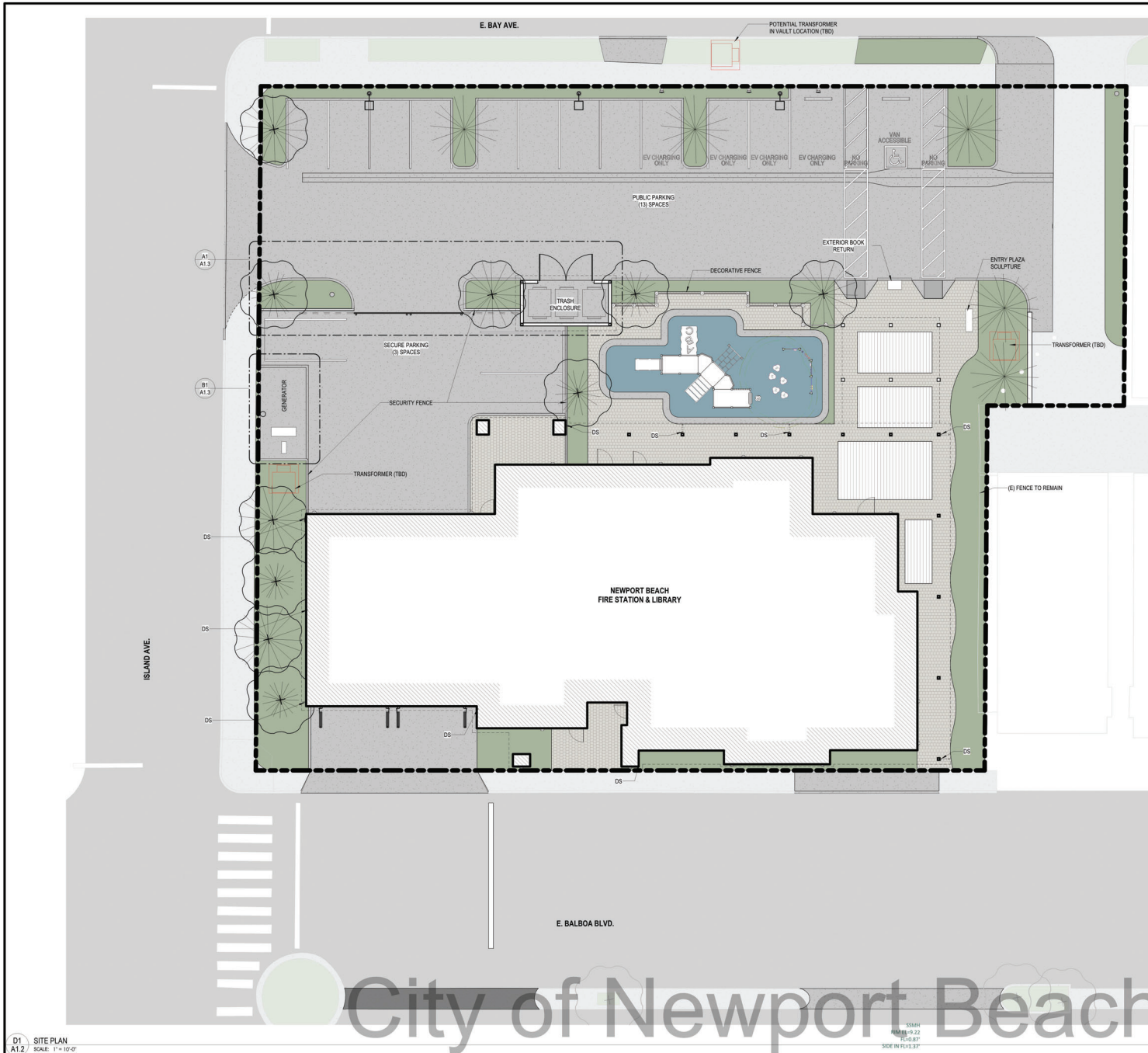
PROJECT NUMBER:
230101

SHEET TITLE:
SITE PLAN - DEMO

SHEET NUMBER:
A1.1
16-54

D1 DEMO SITE PLAN
A1.1 SCALE: 1" = 10'-0"

City of Newport Beach



CONSTRUCTION NOTES

32 31 19 A1 DECORATIVE FENCE
32 31 19 B1 SECURITY FENCE

3000 GRANITE WEDGE DR. SUITE 100
SAN DIEGO, CA 92123
951.551.1111 | www.coargroup.com

PROJECT:
CITY OF NEWPORT BEACH
NEWPORT BEACH FIRE STATION & LIBRARY
110 E BALBOA BLVD
NEWPORT BEACH, CA 92661

DESCRIPTION:
DRT 50% DESIGN DEVELOPMENT
50% DESIGN DEVELOPMENT

DATE:
07/22/24
08/12/24

LEGEND

- PROPERTY LINE
- TREE
- (E) ASPHALT
- (E) CONCRETE
- (E) PLANTING / MULCH
- CONCRETE
- DECORATIVE CONCRETE TYPE 1
- DECORATIVE CONCRETE TYPE 2
- PLANTING / MULCH
- PLAYGROUND

NOT FOR CONSTRUCTION

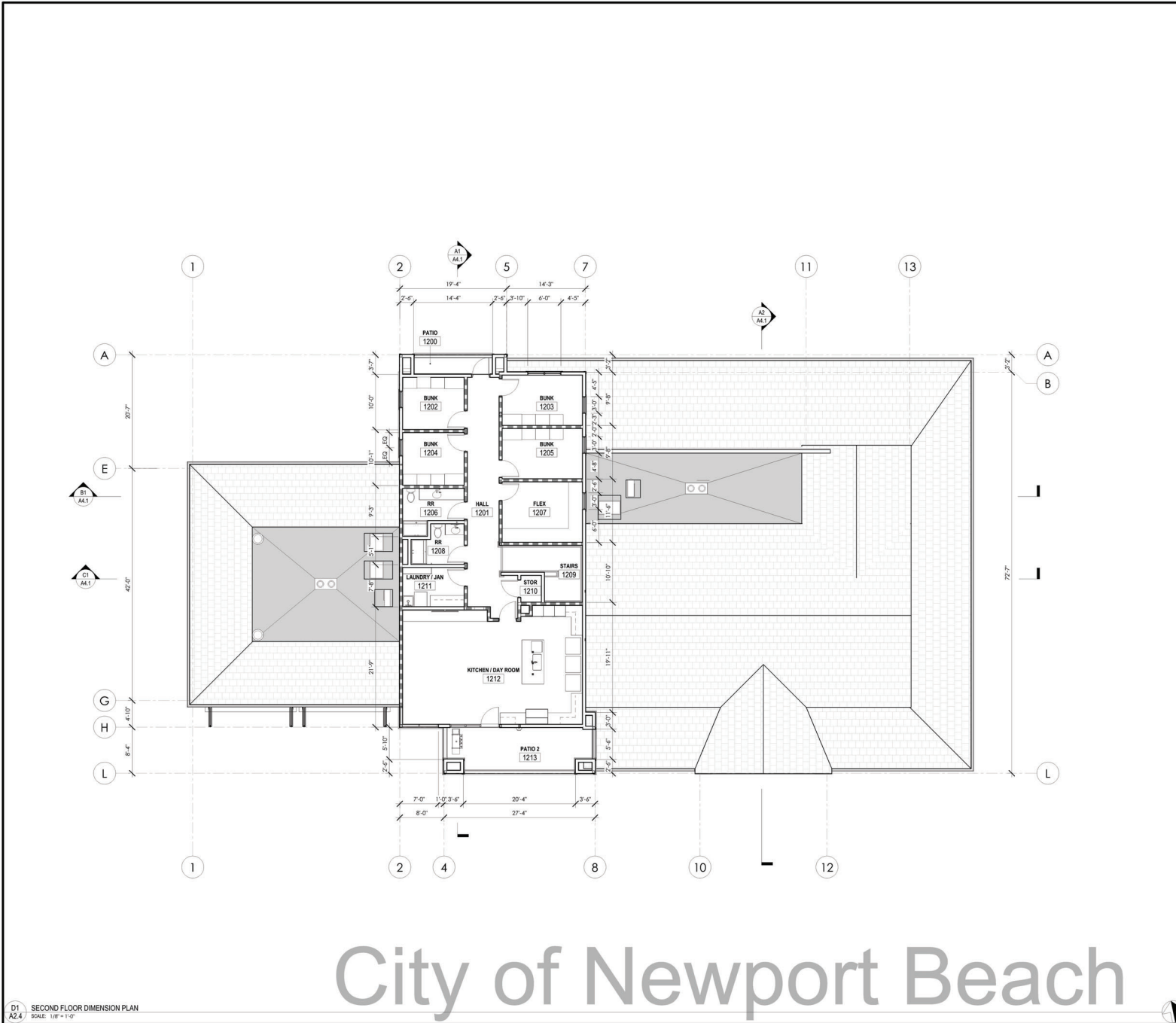
PROJECT NUMBER:
230101

SHEET TITLE:
SITE PLAN

SHEET NUMBER:
A1.2
16-55

D1 SITE PLAN
A1.2 SCALE: 1" = 10'-0"

City of Newport Beach



D1 SECOND FLOOR DIMENSION PLAN
A2.4 SCALE: 1/8" = 1'-0"



NOTES

1. VERIFY ALL ROUGH OPENING SIZES PRIOR TO FRAMING.

WALL LEGEND

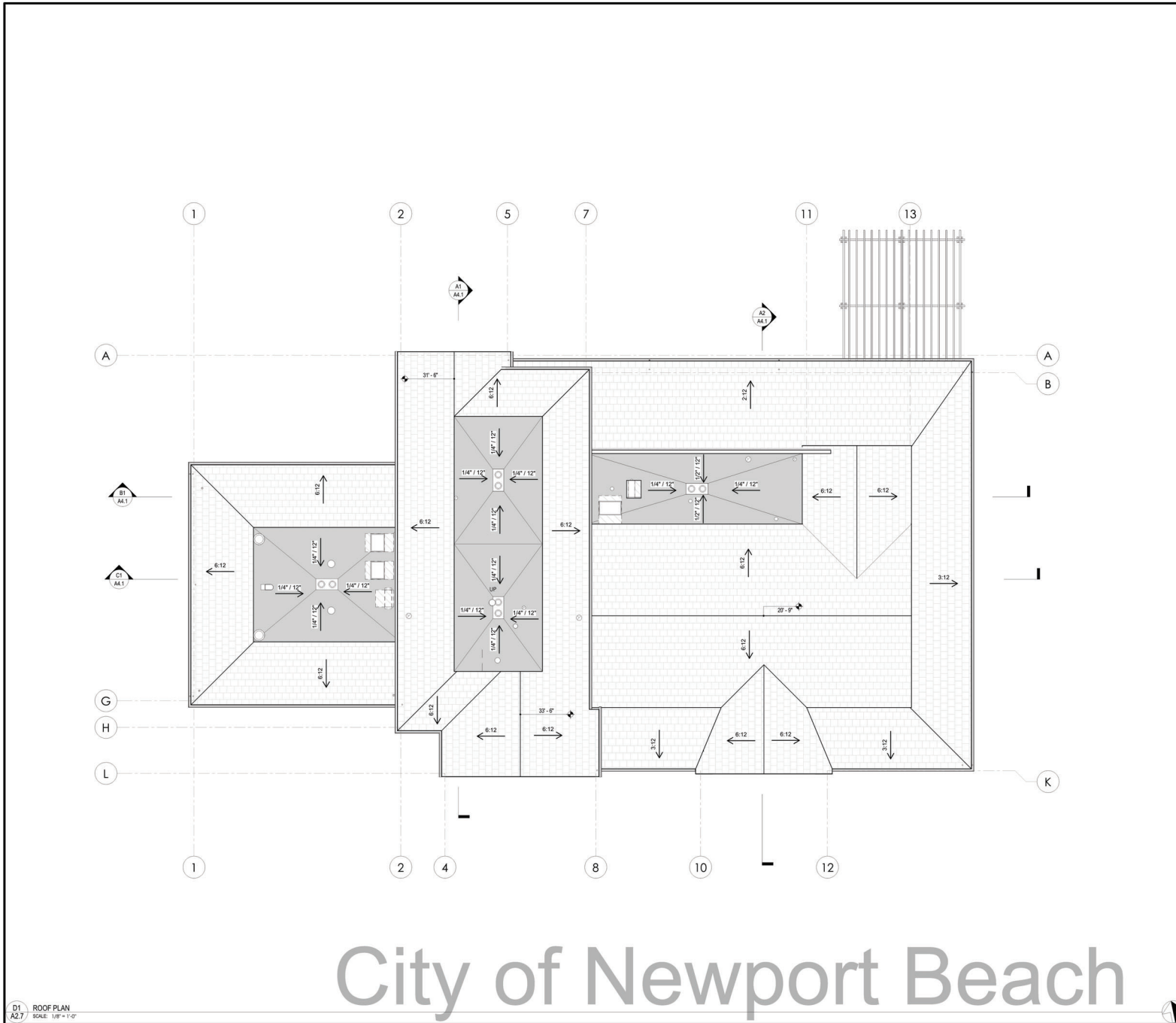
- 2x4 STUD WALL
- 2x6 STUD WALL
- CMU 8" WALL
- CONCRETE WALL

NOT FOR
CONSTRUCTION

PROJECT NUMBER:
230101

SHEET TITLE:
SECOND FLOOR
DIMENSION PLAN

SHEET NUMBER:
A2.4
16-60



CONSTRUCTION NOTES



PROJECT:
CITY OF NEWPORT BEACH
NEWPORT BEACH FIRE
STATION & LIBRARY
110 E BALBOA BLVD
NEWPORT BEACH, CA 92661



DESCRIPTION: DATE:
DRT 50% DESIGN 07/22/24
DEVELOPMENT
50% DESIGN 08/12/24
DEVELOPMENT

NOTES

- SEE ELECTRICAL, MECHANICAL, AND PLUMBING FOR LOCATION OF EQUIPMENT, VENTS, DUCTS, ETC.

LEGEND



NOT FOR
CONSTRUCTION

PROJECT NUMBER:
230101

SHEET TITLE:
ROOF PLAN

SHEET NUMBER:

A2.7
16-63

City of Newport Beach

D1 ROOF PLAN
A2.7 SCALE: 1/8" = 1'-0"



CONSTRUCTION NOTES

NOTES

- NOTES AND DETAILS APPLY TO ALL ELEVATIONS U.N.C.
- FOR FINISH SCHEDULE SEE SHEET A6.1

coar
DESIGN GROUP

3000 GRANITE RIDGE DR. SUITE 100
SAN DIEGO, CA 92108
310.441.1177 | www.coargroup.com

PROJECT:

CITY OF NEWPORT BEACH
NEWPORT BEACH FIRE
STATION & LIBRARY
110 E BALBOA BLVD
NEWPORT BEACH, CA 92661



DESCRIPTION:

DRY 50% DESIGN
DEVELOPMENT
50% DESIGN
DEVELOPMENT

DATE:

07/22/24
08/12/24

NOT FOR
CONSTRUCTION

PROJECT NUMBER:

230101

SHEET TITLE:

EXTERIOR
ELEVATIONS

SHEET NUMBER:

A3.1

16-67



COASTAL DEVELOPMENT PERMIT **NOTICE OF FINAL ACTION**

October 10, 2024

South Coast District
California Coastal Commission
301 E. Ocean Blvd., Suite 300
Long Beach, CA 90802

On **September 24, 2024**, the City Council **approved** Coastal Development Permit No. PA2024-0140. This approval is based on the findings and subject to the conditions of approval in the attached Zoning Administrator resolution. The City's appeal period ended on **October 8, 2024**, and action became final on **October 9, 2024**.

Application No.: Coastal Development Permit No. PA2024-0140
Filing Date: July 23, 2024

Application
Deemed Complete: September 4, 2024

Applicant: Tom Sandefur, Public Works Department
tsandefur@newportbeachca.gov
949-644-3221

Applicant Address: 100 Civic Center Drive
Newport Beach, CA 92660

Site Location: 100 E Balboa Boulevard
Newport Beach, CA 92661 (APN: 048-072-24)

Project Title: Balboa Branch Library and Fire Station No. 1 Redevelopment Coastal Development Permit

Project Description: A coastal development permit (CDP) approving the demolition of the existing City Fire Station No.1 and Balboa Branch Library and the construction of a new, two-story City fire station and library of approximately 10,900 square feet. The demolition of the existing structures includes the removal of two diseased trees. The proposed structure is approximately 33 feet and 6 inches tall with a sloped roof. The facility includes a proposed installation of a 3,675-square-foot green space and a 1,500-square-foot playground area. The finished floor of the proposed structure is 9.0 feet (NAVD 88), which complies with the required minimum finish floor elevation. As conditioned in the approved resolution, the City is responsible for compliance with the Migratory Bird Treaty Act (MBTA), as well as conducting a pre-construction nesting survey prior to any demolition and construction on the property.

Coastal Commission Appeal Determination:

- X** Appealable to the Coastal Commission.
The subject property is located within the Appeals Jurisdiction of the California Coastal Commission. The City's final action is appealable to the Coastal Commission. Appeals to the Coastal Commission shall be filed directly to the Coastal Commission at the South Coast District Office in Long Beach.
- Not Appealable to the Coastal Commission.
Subject Property is not located within the Appeals Jurisdiction and therefore not appealable to the California Coastal Commission. This Notice of Final Action is for informational purposes only.

By: 

Laura Rodriguez, Planning Technician

Attachment: City Council Resolution with Findings and
 Conditions of Approval

RESOLUTION NO. 2024-72

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT AND ZONING EXEMPTION TO DEMOLISH AN EXISTING CITY FIRE STATION AND LIBRARY AND CONSTRUCT A NEW 5,400 TWO-STORY CITY FIRE STATION AND AN ATTACHED 3,700 ONE-STORY LIBRARY LOCATED AT 100 EAST BALBOA BLVD (PA2024-0140)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules, and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by the City's Public Works Division ("Applicant"), with respect to property located at 100 East Balboa Boulevard, and legally described as Block 2 of the East Newport Tract ("Property") for a coastal development permit ("CDP") and zoning exemption (in lieu of a minor use permit) for the following:

- a. The demolition of the existing Balboa Branch Library and Fire Station No. 1 buildings and the removal of two diseased trees located within the Property; and
- b. The construction of a new Fire Station No. 1 and Balboa Branch Library of approximately 10,900 square feet. The proposed structure is approximately 33 feet 6 inches tall with a sloped roof, where Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code ("NBMC") allows for a maximum height of 31 feet with a sloped roof. The facility includes a proposed installation of a 3,675 square foot green space and 1,500 square foot playground area ("Project");

WHEREAS, the existing Balboa Branch Library was constructed in 1929 and is approximately 4,500 square feet in area, including a 360 square-foot City Museum;

WHEREAS, the existing Fire Station No. 1, which is approximately 3,400 square feet in area and was constructed in 1962, was authorized by the Planning Commission on July 7, 1960, under Use Permit No. 654 with no conditions of approval at the time of approval;

WHEREAS, the Property is designated as Public Facilities (PF) by the General Plan Land Use Element, which is intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities;

WHEREAS, the Property is located within the Public Facilities (PF) Zoning District, which is intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities;

WHEREAS, the Property is designated as Public Facilities (PF) by the Coastal Land Use Plan and Coastal Zoning District, which is intended to provide public facilities, including cultural institutions, government facilities, libraries, community centers, public utilities, and public schools;

WHEREAS, Section 20.10.040(A) (Applicability of Zoning Code) of the NBMC authorizes the City Council to exempt City implemented projects by adopting a resolution at a noticed public hearing upon setting forth the specific NBMC provisions that apply in the absence of the exemption;

WHEREAS, flexibility in the applicable development standards is necessary to allow the City to construct a functional Project that supports the public; specifically, relief from Title 20 (Planning and Zoning) of the NBMC ("Title 20") requirements for a minor use permit for governmental facilities in the PF zoning district and the 31-foot maximum height for a sloping roof within the Nonresidential, Shoreline Height Limitation Zone are necessary;

WHEREAS, relief from the Title 20 requirements for a minor use permit for governmental facilities in the Public Facilities (PF) Zoning District is appropriate since the Project has previously been reviewed and conceptually approved by the City Council, and the Project will include conditions of approval through the proposed CDP;

WHEREAS, relief from the Title 20 requirements for 31-foot maximum sloping roof height governmental facilities in the PF Zoning District is necessary due to the placement of required mechanical equipment within the roof;

WHEREAS, the proposed sloping roof is designed as a mansard roof which will act as a mechanical well to support necessary rooftop equipment, and act as a screen of the equipment from the surrounding neighborhood; alternatively, a lower roof would negatively impact the fire station's second floor ceiling height, create difficulty with mechanical equipment, and reduce the roof screening. Required findings for the increase in height above the base height limit for Title 21 (Local Coastal Program Implementation Plan) of the NBMC are addressed below in this resolution; and

WHEREAS, a public hearing was held by the City Council on September 24, 2024, in the Council Chambers located at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), Chapters 20.62 and 21.62 (Public Hearings) of the NBMC, and City Council Policy G-1 (Retention, Removal, and Maintenance of City Trees). Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing for the Project and appeal of the decision to remove a tree.

NOW, THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council does hereby approve Coastal Development Permit No. PA2024-0140 and in accordance with Section 20.10.040(A) (Applicability of Zoning Code) of the NBMC does hereby exempt the Project as depicted in the preliminary plans, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated herein by reference.

Section 2: The City Council finds the adoption of this resolution is not subject to the California Environmental Quality Act ("CEQA") pursuant to Sections 15301 (Class 1 – Existing Facilities), Section 15302 (Class 2 – Replacement or Reconstruction), and 15303 (Class 3 – New Construction or Conversion of Small Structures). The Class 1 exemption applies to additions to existing structures provided that the additional will not result in an increase of more than 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and the areas in which the project is located is not environmentally sensitive; Class 2 exempts replacement or reconstruction of existing structures where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced; and Class 3 exempts the construction and location of limited numbers of new, small facilities or

structures including but not limited to structures not exceeding 10,000 square feet in floor area in urbanized areas on sites zoned for such use.

In this case, the Project, including removal of the tree, consists of the demolition of the existing 4,140 square foot branch library, 360 square foot Balboa Historical Museum and 3,423-square-foot fire station and replacement with construction of a new Fire Station No. 1 and Balboa Branch Library of approximately 10,900 square feet. The Project as proposed results in a net public area increase of approximately 3,000 square feet, does not require any change in the zoning designation, and is located in an urbanized area with adequate public services to serve the area. Based on the foregoing, the Project including removal of the tree is categorically exempt under the Class 1, Class 2 and Class 3 exemption.

The exceptions to these categorical exemptions under Section 15300.2 are not applicable. The Project including removal of the tree 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. As detailed above, the City's arborist consultant, determined that the tree to be removed is diseased. Concerns were also raised regarding impacts that removal of the tree would have on blue herons nesting. According to the evidence provided at the hearing, blue herons are opportunistic and would find another local habitat if the current site was unavailable. City staff observed and presented to the PB&R Commission that there are numerous nesting site opportunities around the harbor. Based on the public's concerns regarding nesting by blue herons, the PB&R Commission approved the removal of the diseased tree, subject to the delaying removal of the tree until September 2025, following nesting season and, as a further precaution, the conditioned removal of the tree on the City confirming no active nests are in place prior to removal. Therefore, the exception to this categorical exception does not apply.

Section 3: In accordance with Subsection 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the NBMC, the following findings and facts in support of such findings as set forth:

Finding of Consistency with Section 21.52.015(F)(1):

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

Facts in Support of Finding with 21.52.015(F)(1):

1. The Property is in the PF Zoning District, which requires projects to obtain a required permit (e.g., conditional use permit or minor use permit) to establish development standards. The Project's development standards would have been established during the review of a minor use permit. However, the Applicant is requesting exemption from obtaining a minor use permit as the required development standards will be established through the Project's coastal development permit. The Project is consistent with the required findings of the certified Local Coastal Program.
 - a. The existing Fire Station No. 1 was approved by the Planning Commission on July 7, 1960, under Use Permit No. 654. At the time of approval, no conditions of approval were given in relation to a maximum floor area limit. Subsequently, the existing Fire Station No. 1 was constructed in 1962, and its current floor area is 3,432 square-feet. The existing Balboa Branch Library was constructed in 1929 and has a current floor area of approximately 4,500 square feet (which includes the 360-square-foot City Museum). The Project includes the demolition of the existing Fire Station No. 1 and Balboa Branch Library and construction of a new Fire Station No. 1 and Balboa Branch Library. Since the Project is located in the PF coastal zoning district, there are no specific development standards required. The Project will have total building area approximating to 10,900 square feet, which is appropriate for the approximately 24,000-square-foot Property.
 - b. The Project provides a setback of approximately 11 feet from the property line along Island Avenue, approximately one-foot from the property line along East Balboa Boulevard, approximately 15 feet from the eastern interior property line, and approximately 82 feet from the property line along East Bay Avenue.
 - c. The highest guardrail is less than 20 feet from the established grade (9.00 feet NAVD88) and the highest ridge will be approximately 33 feet and 6 inches from the established grade. The PF zoning district does not include specific development standards for height, but instead establishes standards through the minor use permit, the Property is located in Nonresidential, Shoreline Height Limit Area, which limits the height of a structure to 26 feet for a flat roof and 31 feet for a sloping roof. The Project includes an approximately 33-foot 6-inch sloping roof, which is appropriate and necessary for the fire station

to support roof-mounted mechanical equipment. Additional findings required for exceeding the height limit per Section 21.30.060(C)(3)(a) (Increase in Height Limit) of the NBMC are addressed below in this resolution.

2. The neighborhood is predominantly developed with residential uses to the north, south, and east, which includes two- and three-story, one- and two-unit dwellings. The block directly west of the Property includes mixed-use and commercial development. The existing Fire Station No. 1 and Balboa Branch Library have existed since 1962 and 1929, respectively, and provide essential services to the surrounding community. In 2021, an assessment evaluating the facilities' condition was conducted, and both facilities were rated as poor condition, due to environmental and age-related deterioration. The Balboa Branch Library's proposed design, bulk, and scale of the development is intended to provide a modern, right-sized neighborhood branch library with a children's room, and work/study areas, including up-to-date technology. The proposed Fire Station No. 1 layout will be able to house four staff members and two apparatus bay parking spots. The proposed 1,500 square foot playground area is to establish a recreational component in the neighborhood that complements the proposed Balboa Branch Library. Additionally, the Project provides improved vehicular access along Island Avenue and East Bay Avenue, and additional street parking along East Balboa Boulevard, Island Avenue, and East Bay Avenue.
3. The Property currently provides 13 on-site parking spaces. Additionally, there is one street parking space available on East Balboa Boulevard. The Project will provide 14 on-site parking spaces and increase the street parking supply to 8 spaces due to street layout improvements associated with the Project.
4. The Property is located on an inland property in a developed area approximately 600 feet from the bay, and approximately 850 feet from the ocean. The Property is separated from the bay (the nearest body of water) by East Balboa Blvd and a row of residences. The finished floor elevation of the first floor of the proposed structure is 9 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the 9.00-foot NAVD88 finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
5. The Property is in an area known for the potential of seismic activity and liquefaction. A Geologic Stability Report will be provided during plan check. All projects are

required to comply with the California Building Code (“CBC”) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved before the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC before building permit issuance.

6. The Property is located approximately 600 feet southerly from coastal waters. A Preliminary Construction Pollution Prevention Plan (“CPPP”) will be provided prior to building permit issuance to implement temporary Best Management Practices (“BMPs”) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials.
7. Proposed landscaping will comply with Section 21.30.075 (Landscaping) of the NBMC. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted. The Project proposes to have 3,675 square-footage of green space and a 1,500 square-foot playground area. In addition, a total of 16 trees will be on the Property at the time of completion.
8. The Property is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is Balboa Pier and is not visible from the Property. The Property is located adjacent to East Balboa Blvd which is accessible to the public and provides some limited opportunities to view the bay through Island Avenue, West Ocean Front, and the beach, which is located southerly from the Property. Additionally, the Project does not contain any unique features that could degrade the visual quality of the coastal zone.
9. The Project’s design provides improved vehicular access which would require the removal of two special landmark trees. However, prior to the removal of any special tree, a Tree Risk Assessment must be prepared and identify special mitigation implementation measures to retain the tree(s). City Council Policy G-1 permits the removal of City Trees set forth in Section IV.A (Removal of Special City Trees) if its removal is related to death, disease, interference with infrastructure, or the creation of hazardous situation.

10. A Tree Risk Assessment and tomographic study was conducted by Dudek Consultants in December of 2022, for three eucalyptus trees located at the Property. The inspection evaluated each tree and its risk to the public and surrounding infrastructure. Subsequently, a second Tree Risk Assessment and sonic tomography study was conducted in August of 2023 by Dudek at the Property. Based on the assessments, two eucalyptus trees were removed due to their increased level of observed decay and risk of failure.
11. During the March 5, 2024, PB&R meeting, Public Works staff recommended removal of a Canary Island Date Palm and a Blue Gum Eucalyptus tree due to unavoidable construction impacts and disease of the trees. It is estimated that it may take up to five years for the decay to reach the one-third safety threshold, in which the removal of trees is recommended due to public safety reasons. PB&R supported the recommended removal of both trees but requested that the tree removal would not occur until September 2025, and for Public Works staff to report back to PB&R regarding the health of the trees.
12. Condition of Approval Nos. 3 and 4 requires the Applicant to conduct pre-construction nesting surveys. The survey will allow the Applicant to identify areas with active nests and to create buffers to protect the nests from disturbance during construction.

Finding of Consistency with Section 21.52.015(F)(2):

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 with 21.52.015(F)(2):

1. The Property is located between the nearest public road and the sea or shoreline. Section 21.30A.040 (Determination of Public Access/Recreation Impacts) of the NBMC requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the Project replaces an existing Fire Station No. 1 and Balboa Branch Library with a new Fire Station No. 1 and Balboa Branch Library, which was conceptually approved by City Council on May 14, 2024. Prior to its conceptual approval, meetings were held to discuss the layout and design of the new building. As a result, these meetings enabled the design to be well thought out by providing a neighborhood recreation component essential to the community,

improved access to the Property, and a modern fire station that would accommodate four staff members. Additionally, the new library will provide several amenities such as a children's room and work/study areas. The Project does not involve a change in land use, density, or intensity that will result in increased demand for public coastal access and recreation opportunities. Furthermore, the Project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public coastal access opportunities.

2. Vertical access to the bay and beach is available adjacent to the Property along Island Avenue. Lateral access is available on the beach to the south along Island Avenue and West Ocean Front. Lateral access to the bay and beach is available by a public sidewalk along West Ocean Front. The Project does not include any features that would obstruct access along these routes.
3. The existing development is provided vehicular access from the side of the lot on East Bay Avenue. The proposed development would maintain the same vehicular access from East Bay Avenue and provide additional vehicular access from Island Avenue.

Section 4: In accordance with Subsection 21.30.060(C) (Height Limits and Exceptions) of the NBMC, the following findings and facts in support of such findings as set forth:

Finding of Consistency with Section 21.30.060(C)(3)(a):

The Project is sited and designed to protect public views to and along the ocean and scenic coastal areas.

Facts In Support of Findings with Section 21.30.060(C)(3)(a):

1. Fact 8 in Support of Finding of Consistency with 21.52.015(F)(1) is hereby incorporated by reference.
2. The Property is southerly located approximately 600 feet from coastal waters and is surrounded by existing residential and mixed-use properties. Therefore, the Project will not impact public views to and along the ocean and scenic coastal areas.

Finding of Consistency with Section 21.30.060(C)(3)(b):

The Project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas.

Facts In Support of Findings with Section 21.30.060(C)(3)(b):

1. The Project's sloping roof's design allows the mechanical equipment to be screened from public view by the means of a mechanical well. As a result, this method will protect views from neighboring residential properties. If the sloped roof was to be lowered, then it would result in potentially lowering the floor to ceiling height of the fire station's second floor and may negatively impact the roof-mounted equipment by not providing an adequate method of screening.
2. Fact 1 in Support of Finding of Consistency with 21.52.015(F)(2) is hereby incorporated by reference.
3. Fact 2 in Support of Finding with 21.52.015(F)(1) is hereby incorporated by reference.

Finding of Consistency with Section 21.30.060(C)(3)(c):

Where feasible, the Project will restore and enhance visual quality in visually degraded areas.

Facts In Support of Findings with Section 21.30.060(C)(3)(c):

1. Fact 8 in Support of Finding of Consistency with 21.52.015(F)(1) is hereby incorporated by reference.
2. The Project's design will enhance the area by replacing two governmental facilities that needed major repair due to environmental and age-related deterioration. The new and modified design of both facilities will continue to provide essential services to the surrounding community.

Section 5: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

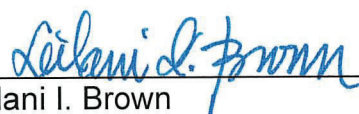
Section 6: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 7: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 24th day of September 2024.


Will O'Neill
Mayor

ATTEST:


Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE


Aaron C. Harp
City Attorney

Attachment: Exhibit A - Conditions of Approval

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project specific conditions are italicized)

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. *The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:*
 - A. *The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.*
 - B. *It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.*
4. *A pre-construction nesting survey shall be conducted prior to any demolition and construction on the Property.*
5. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated

fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
10. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
11. *Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
12. *Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
13. *Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
14. *Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
15. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems

shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

16. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, 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.

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.

17. 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 the current property owner or agent.
18. This Coastal Development Permit No. PA2024-0140 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

Building Division

19. 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.

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

ss.

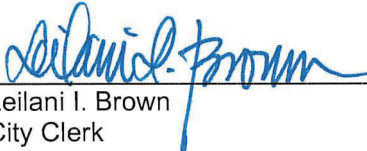
I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2024-72 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 24th day of September, 2024; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Will O'Neill, Mayor Pro Tem Joe Stapleton, Councilmember Noah Blom, Councilmember Robyn Grant, Councilmember Lauren Kleiman, Councilmember Erik Weigand

NAYS: None

ABSENT: Councilmember Brad Avery

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 25th day of September, 2024.



Leilani I. Brown
City Clerk



CALIFORNIA COASTAL COMMISSION

SOUTH COAST DISTRICT OFFICE
301 E. OCEAN BLVD., SUITE 300
LONG BEACH, CA 90802
(562) 590-5071
SOUTHCOAST@COASTAL.CA.GOV

RECEIVED
South Coast Region

OCT 24 2024

CALIFORNIA
COASTAL COMMISSION

**APPEAL FORM****Appeal of Local Government Coastal Development Permit****Filing Information (STAFF ONLY)**

District Office: South Coast

Appeal Number: A-5-NPB-24-0047

Date Filed: 10/24/24

Appellant Name(s): Chris Pitet, The Friends of Library Park

APPELLANTS

IMPORTANT. Before you complete and submit this appeal form to appeal a coastal development permit (CDP) decision of a local government with a certified local coastal program (LCP) to the California Coastal Commission, please review the appeal information sheet. The appeal information sheet describes who is eligible to appeal what types of local government CDP decisions, the proper grounds for appeal, and the procedures for submitting such appeals to the Commission. Appellants are responsible for submitting appeals that conform to the Commission law, including regulations. Appeals that do not conform may not be accepted. If you have any questions about any aspect of the appeal process, please contact staff in the Commission district office with jurisdiction over the area in question (see the Commission's contact page at <https://coastal.ca.gov/contact/#/>).

Note regarding emailed appeals. Please note that emailed appeals are accepted ONLY at the general email address for the Coastal Commission district office with jurisdiction over the local government in question. For the South Coast district office, the email address is SouthCoast@coastal.ca.gov. An appeal emailed to some other email address, including a different district's general email address or a staff email address, will be rejected. It is the appellant's responsibility to use the correct email address, and appellants are encouraged to contact Commission staff with any questions. For more information, see the Commission's contact page at <https://coastal.ca.gov/contact/#/>.

Appeal of local CDP decision

Page 2

1. Appellant information¹

Name: The Friends of Library Park

Mailing address: c/o Chris Pitet, 100 Bayview Circle, Suite 210, Newport Beach, CA 92660

Phone number: (949) 502-7760

Email address: cpitet@apjuris.com

How did you participate in the local CDP application and decision-making process?

☐ Did not participate ☐ Submitted comment ☒ Testified at hearing ☐ Other

Describe: Appellant testified at numerous City Council and Parks, Beaches, and Recreation
hearings opposing this development decision by the City of Newport Beach,
as can be seen by the recording of the City Council meeting held on
September 24, 2024. See the link provided in our grounds for appeal.

If you did *not* participate in the local CDP application and decision-making process, please identify why you should be allowed to appeal anyway (e.g., if you did not participate because you were not properly noticed).

Describe: _____

Please identify how you exhausted all LCP CDP appeal processes or otherwise identify why you should be allowed to appeal (e.g., if the local government did not follow proper CDP notice and hearing procedures, or it charges a fee for local appellate CDP processes).

Describe: Appellant raised objections at City Council meetings where the city contemplated approving this
development decision — and subsequently appealed the city's decision to approve the
development. The city denied that appeal. Appellant subsequently received two notices
stating that the pending appeal must be filed by 5:00 pm on October 24, 2024.

¹ If there are multiple appellants, each appellant must provide their own contact and participation information. Please attach additional sheets as necessary.

Appeal of local CDP decision
Page 3

2. Local CDP decision being appealed²

Local government name: City of Newport Beach

Local government approval body: Newport Beach City Council

Local government CDP application number: 5-NPB-24-1270

Local government CDP decision: ☒ CDP approval ☐ CDP denial³

Date of local government CDP decision: October 10, 2024

Please identify the location and description of the development that was approved or denied by the local government.

Describe: Location: 110 E Balboa Blvd., Newport Beach, CA 92661

Description: Demolition of an existing city fire station and public library for
construction of a new 10,900 sq. ft. fire station and public library.
The project includes the removal of a eucalyptus tree, which
the city has designated as a Landmark status tree, and is a haven for
more than two dozen nesting Great Blue Heron birds.

² Attach additional sheets as necessary to fully describe the local government CDP decision, including a description of the development that was the subject of the CDP application and decision.

³ Very few local CDP denials are appealable, and those that are also require submittal of an appeal fee. Please see the [appeal information sheet](#) for more information.

Appeal of local CDP decision

Page 5

5. Identification of interested persons

On a separate page, please provide the names and contact information (i.e., mailing and email addresses) of all persons whom you know to be interested in the local CDP decision and/or the approved or denied development (e.g., other persons who participated in the local CDP application and decision making process, etc.), and check this box to acknowledge that you have done so.

☒ Interested persons identified and provided on a separate attached sheet

6. Appellant certifications

I attest that to the best of my knowledge, all information and facts in this appeal are correct and complete.

Print name Jim Moloney, on behalf of The Friends of Library Park



Signature

Date of Signature 10/24/24

7. Representative authorization

While not required, you may identify others to represent you in the appeal process. If you do, they must have the power to bind you in all matters concerning the appeal. To do so, please complete the representative authorization form below and check this box to acknowledge that you have done so.

☒ I have authorized a representative, and I have provided authorization for them on the representative authorization form attached.

⁵ If there are multiple appellants, each appellant must provide their own certification. Please attach additional sheets as necessary.

⁶ If there are multiple appellants, each appellant must provide their own representative authorization form to identify others who represent them. Please attach additional sheets as necessary.

CALIFORNIA COASTAL COMMISSION

455 MARKET STREET, SUITE 300
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400

**DISCLOSURE OF REPRESENTATIVES**

If you intend to have anyone communicate on your behalf to the California Coastal Commission, individual Commissioners, and/or Commission staff regarding your coastal development permit (CDP) application (including if your project has been appealed to the Commission from a local government decision) or your appeal, then you are required to identify the name and contact information for all such persons prior to any such communication occurring (see Public Resources Code, Section 30319). The law provides that failure to comply with this disclosure requirement prior to the time that a communication occurs is a misdemeanor that is punishable by a fine or imprisonment and may lead to denial of an application or rejection of an appeal.

To meet this important disclosure requirement, please list below all representatives who will communicate on your behalf or on the behalf of your business and submit the list to the appropriate Commission office. This list could include a wide variety of people such as attorneys, architects, biologists, engineers, etc. If you identify more than one such representative, please identify a lead representative for ease of coordination and communication. You must submit an updated list anytime your list of representatives changes. You must submit the disclosure list before any communication by your representative to the Commission or staff occurs.

Your Name Jim Moloney, on behalf of The Friends of Library Park

CDP Application or Appeal Number 5-NPB-24-1270

Lead Representative

Name Christopher Pitet

Title Attorney

Street Address 100 Bayview Circle, Suite 210

City Newport Beach

State, Zip CA 92660

Email Address cpitet@apjuris.com

Daytime Phone (949) 502-7760

Your Signature  _____

Date of Signature 10/24/24

Additional Representatives (as necessary)

Name Jim Moloney
Title Attorney
Street Address. 316 Anade Avenue
City Newport Beach
State, Zip CA 92661
Email Address jimmejoe@aim.com
Daytime Phone (949) 723-1738

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____

Name _____
Title _____
Street Address. _____
City _____
State, Zip _____
Email Address _____
Daytime Phone _____



Your Signature _____

Date of Signature 10/24/24

Exhibit A – Grounds for Appeal

The Friends of Library Park seek to appeal the City of Newport Beach’s recently approved demolition of an existing library and firehouse, and the construction of a new library and firehouse (exceeding 10,000 square feet) at 110 E. Balboa Blvd. on the Balboa Peninsula, all within one block of the Pacific Ocean to the North and one block of Newport Harbor to the South (within the Coastal Zone administered by this Commission). The proposed project is significant and will entail the removal of all trees and plant life, including a 100+ year old Eucalyptus tree that is designated as a “Landmark Tree” under the City’s tree policy (referred to herein as the “Library Park Tree”). In addition to the removal of the Library Park Tree, which is home to approximately two dozen nesting Blue Herons, this project will ultimately result in the elimination of a public park in order to make way for an expanded parking lot and new library and firehouse, which has been strongly opposed by local residents (See [here](#)¹ for local news coverage).

As the Coastal Commission is no doubt aware, Blue Herons are federally protected under the Migratory Bird Treaty Act. For generations, over two dozen nesting Blue Herons have found a haven in the century old, Landmark-status Library Park Tree in the “pocket park” located on the Balboa Peninsula, adjacent to a public library and firehouse initially constructed in the early 1930s and 1960s, respectively. The California Department of Fish and Wildlife has stated that these birds are “[s]ensitive to human disturbance near nests.” (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=1571>). The City of Newport Beach, however, seeks to remove this Landmark Tree and eliminate the Blue Herons’ nesting grounds through a proposed construction project. This environmentally destructive undertaking, which is made in the absence of a sufficient plan for preventing—or even mitigating—the environmental harm that will ensue, warrants this Commission’s review.

The City expects its plan to be rubber stamped because it “intends to” comply with the Migratory Bird Treaty Act (which expressly protects Blue Herons) and because it purportedly has sufficient environmental guidance from documents like Newport Beach’s own Local Coastal Plan (attached here as Exhibit C²). But the City’s position is undermined by its own conduct. Take the Migratory Bird Treaty Act, for example. The City failed to mention the Migratory Bird Treaty Act in connection with its proposal to construct a new library and firehouse development other than to say in the corrected notice dated October 14, 2024 that the City will comply with the Act. Additionally, the council members’ and staff’s commentary during City Council meetings to approve this project—including staff reports presented at City Council meetings and Parks, Beaches, and Recreation Commission meetings—state merely that the Library Park Tree will be cut down outside the Blue Heron nesting season in the Fall of 2025. In fact, the very first

¹ <https://www.cbsnews.com/losangeles/news/newport-beach-residents-fight-back-against-citys-plan-to-remove-eucalyptus-tree-home-to-great-blue-herons/>

² We have compiled the City of Newport Beach’s Local Coastal Program as a separate exhibit to the best of our ability, based on publicly available documents.

time the Migratory Bird Treaty Act was mentioned was in an updated notice about the deadline to file this appeal, suggesting the City might not have even realized there was a federal statute protecting the Blue Herons at issue until very recently, or it was an afterthought. To date, the City still has not described how it will comply with the Migratory Bird Treaty Act.

The City's reliance on the Local Coastal Plan is equally inadequate. The Local Coastal Plan is substantively deficient and flawed, meriting close Coastal Commission review. For starters, the plan doesn't mention key policies which the City of Newport Beach has identified—and failed to address—such as the attached G-1 Tree Policy (which the City affirmatively waived when they were pressed by counsel for The Friends of Library Park with evidence that removal of this healthy tree was not in compliance with the City's own policy) and the Migratory Bird Treaty Act. (See [here](#)³ at 03:15:00 to see the City Council, on September 24, 2024, waive its own G-1 Tree Policy). There may be even more limitations on the City's authority to proceed here—but based on its opaque approach to environmental preservation of sensitive breeding grounds for wildlife birds in the Coastal Zone, including its failure to incorporate any measures to minimize or mitigate the impact of this project on Blue Herons, residents seeking this appeal may never know. Additionally, even where the Local Coastal Plan does expressly refer to protecting environmentally sensitive habitat areas ("ESHAs"), it fails to articulate what those measures might be or would require in the context of this or similar projects. For example, it explains that the City is to "require a site-specific survey and analysis prepared by a qualified biologist as a filing requirement for coastal development permit applications" and that the city is to "identify ESHA[s]"—but doesn't mention how these requirements are to be implemented or enforced. (See Section 4.1.1-2 of Newport Beach's Local Coastal Plan). The City should not be allowed to proceed with this significant construction project without adhering to meaningful and clearly articulated policies that are designed to prevent—or at least mitigate—the potential for environmental harm and adverse consequences to wetland wildlife, including the nesting Blue Herons in question here. Without such policies embedded and clearly articulated within the Local Coastal Plan, the City will continue to lack any principles-based approach or guardrails to ensure that projects such as this in the Coastal Zone do not damage the environment or otherwise restrict public access through the elimination of a public park. Moreover, absent any concrete metrics by which to review the City's actions, residents and the Commission will lack any ability to hold the City accountable for compliance with applicable regulations.

Recently, in 2019, this Commission was presented with a similar situation involving a construction project in Marina Del Rey that entailed the removal of several Eucalyptus trees displacing nesting Blue Herons. In this earlier matter (see Staff Report for Appeal A-5-MDR-19-0217, attached here as Exhibit D) the Commission decided that the proposed mitigation strategy of planting four new trees nearby was insufficient to mitigate the anticipated displacement of the Blue Herons in that project. Instead, the Commission decided that the developer should

³<https://channels.apacecs.com/channels/#/bsb06f0fcik7aun5opg/s/cru8hi6o1n9vv457aqk0/watch/crqr08uo1n9vv457aim0>

construct nesting poles, and undertake additional mitigation efforts, to properly protect against the potential adverse consequences to the Blue Herons. Here, the City of Newport Beach has not contemplated any sort of mitigation strategy or efforts, including potential nesting poles. Instead, it has sought to avoid or side-step the consideration of any steps or measures that would protect the environmental habitat for the Blue Herons nesting in Library Park. This is best illustrated by the City's recent decision to waive its G-1 Tree Policy (attached here as Exhibit E)—one of the few identifiable mechanisms for ensuring the preservation of Landmark Trees (like the Library Park Tree on which Blue Herons nest). In fact, the City only waived this policy after The Friends of Library Park and its legal counsel presented compelling evidence from the City's own independent arborist report on the Library Park Tree that the tree is healthy and thus there is no real basis for removal under the City's own G-1 Tree Policy. (See Exhibit E). This not only underscores the City's lack of adequate protocols for protecting the environmental habitat in the Coastal Zone, but also reflects a disregard for preservation of an environmentally sensitive area in favor of expediting its construction plans over a local ecosystem's long term sustainability. We believe these circumstances merit this Commission's review of the significant construction project planned for Library Park on the Balboa Peninsula.

For the Commission's consideration, please find attached the following exhibits:

- The City of Newport Beach's Local Coastal Plan (Exhibit C)
- The Coastal Commission's Staff Report for Appeal A-5-MDR-19-0217 (Exhibit D)
- The City of Newport Beach's Waived G-1 Tree Policy (Exhibit E)
- KCAL News Article (Exhibit F)

We would be happy to provide any supplemental materials that may assist the Commission in its review of the City of Newport Beach's proposed new library and firehouse, and elimination of a public park and critical nesting sites for Blue Herons.

Exhibit B – Identification of Interested Persons

April Strong

415 1/2 East Bay Ave

Newport Beach, CA 92661

(949) 673-4094

april.balloondiva@gmail.com

Jim Moloney

316 Anade Avenue

Newport Beach, CA 92661

(949) 723-1738

jimmejoe@aim.com

Tara Gillfillan

421 East Bay Avenue

Newport Beach, CA 92661

(760) 518-3895

taraGfitness@gmail.com

Michele L. Silver

103 East Edgewater Avenue

Newport Beach, CA 92661

(949) 675-8213

michelesilver@roadrunner.com

Darlene Chess

311 Edgewater Avenue

Newport Beach, CA 92661

(949) 836-2505

darlenechess@yahoo.com

Exhibit D – Coastal Commission’s Staff Report for Appeal A-5-MDR-19-0217



W15a

Appeal Filed: 1/07/2020
49th Day: Waived
Staff: M. Revell-LB
Staff Report: 8/26/2021
Hearing Date: 9/08/2021

STAFF REPORT: APPEAL – SUBSTANTIAL ISSUE & DE NOVO

Appeal Number: A-5-MDR-19-0217

Applicant for the Appeal: E&S Ring Management Corporation

Applicants for the De Novo: E&S Ring Management Corporation and Department of Beaches & Harbors, County of Los Angeles

Local Government: Los Angeles County Department of Regional Planning

Local Decision: Approval with Conditions

Appellants: Ballona Institute & Marcia Hanscom

Project Location: 4500 Via Marina, Marina Del Rey, Los Angeles County
APN 06037-4224001904

Project Description: After-the fact authorization of the unpermitted removal of 11 unoccupied nests from four trees within the Mariners Village apartment complex on Marina del Rey Lease Parcel 113.

Staff Recommendation: Determine that a **Substantial Issue** exists and **approve** the permit as revised.

SUMMARY OF STAFF RECOMMENDATION

Commission staff recommends that the Commission determine that a **substantial issue exists** with respect to the grounds on which the appeal has been filed because the County's decision to authorize removal of eleven unoccupied nests after-the-fact is not

development that can be authorized without complying with procedures outlined in the Marina del Rey Local Coastal Program (LCP). In addition, the mitigation plan imposed by the County does not sufficiently address the unpermitted removal of the nests, which also raises a substantial issue. Furthermore, staff recommends that, after a public hearing, the Commission **approve the de novo permit** as revised with special conditions.

The primary issues raised by the proposed development are adverse impacts to protection and preservation of nesting waterbirds and their habitat in Marina del Rey. The County's after-the-fact approval of removal of unoccupied nests may adversely impact colonial nesting water bird species thereby failing to protect, preserve, and maintain the habitat as required by the County's LCP policies.

The substantial issue recommendation is based on insufficient findings in the County's Staff report to justify removal of the nests.¹ Suitable nesting sites for colonial nesting water birds, which play an important role in breeding, are scarce in southern California and at least 11 nests were removed by the applicant. The nests provided biologically significant habitat for the resident heron colony.

The appellants also contend that the County did not fully address the impacts associated with removal of the nests through the approved mitigation program. They argue that there is no information in the record to substantiate why Yvonne B. Burke Park, which is located approximately one mile north from where the nests were removed, was selected as a mitigation site for tree planting. If the Commission finds that substantial issues exist relating to the nest removal and habitat protection policies of the LCP, the Commission's de novo review of the proposed development should consider whether the proposed development, including the mitigation plan, is consistent with all the applicable standards set forth in the certified LCP.

Since the appeal was filed, the Department of Beaches & Harbors, County of Los Angeles (DBH) and the applicant, E & S Ring Management Corporation, worked with Commission staff to revise the project to request approval of restoration and mitigation measures to address the removal of nests, instead of to request after-the-fact approval of the removal of nests, including by providing the same number of nesting opportunities for colonial waterbirds as the number of nests removed, if not more, including through the installation of two nesting poles (each with three nesting platforms, for a total of six potential nesting sites) and the planting of five trees (three Tecate Cypress trees and two Monterey Cypress trees) in suitable locations. Finally, in order to fully resolve the unpermitted removal of nests at issue, which constitute violations of the Coastal Act and LCP, the applicant has agreed, pursuant to the terms of the permit, to restore an area of the Ballona Lagoon to enhance foraging habitat for wading birds.

¹ *Executive Summary of Parcel 113 Nesting Waterbird Activity for 2014 through 2018*, LSA, dated January 21, 2019.

Staff has also met with the appellants to discuss their concerns with the proposed project. Certain Special Conditions are intended, in part, to address resources impacts identified by the appellants.

Staff is recommending the Commission **approve** the de novo coastal development permit application with special conditions. **Special Condition 1** requires the applicant to submit a final Mitigation Plan. **Special Conditions 2 and 3** require biological monitoring. **Special Condition 4** requires project biologist to conduct an onsite meeting with the landscape contractor to inform landscaping crews of biological resources of concern at the site, avoidance measures, removal limits and methods, and any materials relevant to the Tree Trimming Plan to avoid future nest removal incidents. **Special Condition 5** requires the applicant to comply with all permit requirements of applicable resource agencies.

IMPORTANT HEARING PROCEDURE NOTE: The Commission will not take testimony on this “substantial issue” recommendation unless at least three commissioners request it. The Commission may ask questions of the applicant, any aggrieved person, the Attorney General or the Executive Director prior to determining whether or not to take testimony regarding whether the appeal raises a substantial issue. (14 CCR § 13115(c).) If the Commission takes testimony regarding whether the appeal raises a substantial issue, testimony is generally and at the discretion of the Chair limited to 3 minutes total per side. Only the applicant, persons who opposed the application before the local government (or their representatives), and the local government shall be qualified to testify during this phase of the hearing. Others may submit comments in writing. (14 CCR § 13117.) If the Commission finds that the appeal raises a substantial issue, the de novo phase of the hearing will occur directly following that finding, during which it will take public testimony.

PLEASE NOTE THAT THIS WILL BE A VIRTUAL MEETING. As a result of the COVID-19 emergency and the Governor’s Executive Orders N-29-20, N-33-20, and N-08-21, this Coastal Commission meeting will occur virtually through video and teleconference. Please see the Coastal Commission’s Virtual Hearing Procedures posted on the Coastal Commission’s webpage at www.coastal.ca.gov for details on the procedures of this hearing. If you would like to receive a paper copy of the Coastal Commission’s Virtual Hearing Procedures, please call 415-904-5202.

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EXHIBITS

- Exhibit 1** – Vicinity Map
- Exhibit 2** – Site Plan with Tree Locations Where Nests Were Removed
- Exhibit 3** – CCC Enforcement Letter April 2020
- Exhibit 4** – County's Notice of Final Action for Local CDP RCDP-20140000
- Exhibit 5** – County's Resolution Approving Local CDP RCDP-20140000
- Exhibit 6** – Proposed Locations for Tree Planting and Nesting Platform Installation
- Exhibit 7** – Proposed Location for Concrete Debris Removal
- Exhibit 8** – Nesting Platform Schematic, Northern Prairie Research Center
- Exhibit 9** – Revised Location for Nesting Platform

I. MOTION AND RESOLUTION - SUBSTANTIAL ISSUE

Motion: *I move that the Commission determine that Appeal No. A-5-MDR-19-0217 raises NO Substantial Issue with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act.*

Staff recommends a **NO** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the Commissioners present.

Resolution to Find Substantial Issue:

*The Commission hereby finds that Appeal No. A-5-MDR-19-0217 presents a **SUBSTANTIAL ISSUE** with respect to the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the certified Local Coastal Plan and/or the public access policies of the Coastal Act.*

II. APPELLANTS' CONTENTIONS

On November 13, 2019, the Los Angeles County Department of Regional Planning approved Local Coastal Development Permit No. RCDP-201400001 to authorize the unpermitted removal of eleven nests from four trees within the Mariners Village apartment complex after-the-fact ([Exhibit 2](#)). On December 6, 2019 the Coastal Commission's South Coast District Office received the Notice of Final Action for Local Coastal Development Permit No. RCDP-201400001 ([Exhibit 7](#)). On December 20, 2019, the Commission received a valid appeal from the Ballona Institute and Marcia Hanscom ([Exhibit 6](#)). The appeal asserts that the City-approved development does not conform to the requirements of the certified Marina Del Rey LCP.

The appellants have raised several contentions with regard to the local approval of the proposed development. First, the appellants contend that the CDP authorized removal of nests which is inconsistent with the resource protection policies of the LCP and is development that cannot be authorized. Second, the appellants contend that the locally approved project does not require monetary penalties which were contemplated in the County's Notice of Violation. Third, the appellants contend that the locally approved mitigation plan is insufficient because it requires the planting of four small trees in a location where great blue herons do not nest. The appellants fourth contention is that the County findings could not support the conclusion that since no trees were removed, no harm was done to the habitat. Finally, the appellants contend that the County and

E&S Ring Management Corporation continue to over-trim the trees suitable for nesting and roosting by colonial nesting birds, thereby reducing tree canopy coverage that is necessary for nesting.

III. LOCAL GOVERNMENT ACTION

On November 13, 2019, the Los Angeles Department of Regional Planning held a public hearing on the proposed project. At the conclusion of that public hearing, the Regional Planning Commission approved with conditions Local Coastal Development Permit No. RCDP-201400001, which approved removal of 11 unoccupied nests and a mitigation plan consisting of the planting of four trees in Yvonne B. Burke Park and a monitoring program not to exceed \$56,000.00.

On December 6, 2019, the Coastal Commission's South Coast District Office received the County's Notice of Final Action for Local Coastal Development Permit No. RCDP-201400001, and the ten working-day appeal period commenced.

IV. APPEAL PROCEDURES

After certification of a Local Coastal Program (LCP), the Coastal Act provides for limited appeals to the Coastal Commission of certain local government actions on coastal development permits. Developments approved by cities or counties may be appealed if they are located within the mapped appealable areas, such as those located between the sea and the first public road paralleling the sea or within three hundred feet of the mean high tide line or inland extent of any beach or top of the seaward face of a coastal bluff, or within one hundred feet of any wetland, estuary, or stream [Coastal Act Section 30603(a)]. In addition, an action taken by a local government on a coastal development permit application may be appealed to the Commission if the development constitutes a "major public works project" or a "major energy facility" [Coastal Act Section 30603(a)(5)].

Section 30603 of the Coastal Act states, in part:

- (a) After certification of its Local Coastal Program, an action taken by a local government on a Coastal Development Permit application may be appealed to the Commission for only the following types of developments:*
 - (1) Developments approved by the local government between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tide line of the sea where there is no beach, whichever is the greater distance.*
 - (2) Developments approved by the local government not included within paragraph (1) that are located on tidelands, submerged lands, public*

trust lands, within 100 feet of any wetland, estuary, stream, or within 300 feet of the top of the seaward face of any coastal bluff.

(3) Developments approved by the local government not included within paragraph (1) or paragraph (2) that are located in a sensitive coastal resource area.

Section 30603(a)(2) of the Coastal Act establishes the project site as being appealable by its location between the first public road and the sea.

The grounds for appeal of an approval, by a certified local government, of a local coastal development permit authorizing development in the appealable area are stated in Section 30603(b)(1), which states:

(b)(1) The grounds for an appeal pursuant to subdivision (a) shall be limited to an allegation that the development does not conform to the standards set forth in the certified Local Coastal Program or the public access policies set forth in [the Coastal Act].

The grounds listed for the current appeals include contentions that the approved development does not conform to the standards set forth in the certified LCP regarding important biological resources.

Section 30625(b)(2) of the Coastal Act requires a de novo hearing of the appealed project unless the Commission determines that no substantial issue exists with respect to the grounds on which the appeal was filed pursuant to section 30603. If Commission staff recommends a finding of substantial issue, and there is no motion from the Commission to find no substantial issue, the substantial issue question will be considered moot, and the Commission will proceed to the de novo public hearing on the merits of the project. A de novo public hearing on the merits of the project uses the certified LCP as the standard of review.

In addition, for projects located between the first public road and the sea, findings must be made that any approved project is consistent with the public access and recreation policies of the Coastal Act. The project site is located between the sea and the first public road paralleling the sea, therefore, public access considerations are required. Sections 13110-13120 of the California Code of Regulations further explain the appeal hearing process.

Qualifications to Testify before the Commission

If the Commission decides to hear arguments and vote on the substantial issue question, proponents and opponents will have an opportunity to address whether the appeal raises a substantial issue. The time limit for public testimony will be set by the chair at the time of the hearing. As noted in Section 13117 of Title 14 of the California

Code of Regulations, the only persons qualified to testify before the Commission at the substantial issue portion of the appeal process are the applicants, persons who opposed the application before the local government (or their representatives), and the local government. Testimony from other persons must be submitted in writing.

Upon the close of the public hearing, the Commission will vote on the substantial issue matter. It takes a majority of Commissioners present to find that no substantial issue is raised by the local approval of the subject project. At the de novo hearing, the Commission will hear the proposed project de novo and all interested persons may speak.

V. FINDINGS AND DECLARATIONS – SUBSTANTIAL ISSUE

A. PROJECT DESCRIPTION AND LOCATION

The project site is located between the first public road and the sea in the Mariners Village apartment complex, located along the west side of the entrance channel in the southwest corner of Marina del Rey near the harbor entrance from the Pacific Ocean ([Exhibit 1](#)). The project site is approximately 23.1 acres and is within County-lease Parcel 113.

On November 7, 2013, the applicant requested authorization for the trimming, pruning, and thinning of three trees on the Project Site and provided the Department of Beaches and Harbors (DBH) staff with the biological survey required by the Marina Del Rey LCP. On November 14, 2013, DBH authorized the pruning of three trees at the Project Site. The trimming was to take place during the non-breeding, non-nesting season and did not authorize the removal of nests located within the subject trees. Tree trimming took place between November and December of 2013.

On March 12, 2014, several members of the public testified at the California Coastal Commission hearing regarding tree pruning activities at the project site and indicated that several nests had been removed from the trees at the project site without authorization. As stated, the nests removed were presumed to be great blue heron nests.

The County Department of Regional Planning inspected the site and confirmed that a tree had been pruned without proper authorization from DBH, and that 11 nests were removed from four trees on the project site without authorization from DBH and in violation of the Los Angeles County Zoning Ordinance and the Marina del Rey Local Coastal Program. On March 25, 2014, the County issued a Notice of Violation to the applicant, which informed the applicant that a CDP would be required to rectify the unpermitted activity. In addition, DBH staff notified the U.S. and State Fish and Wildlife Departments of the unpermitted removal of nests.

On March 26, 2014, the subject application was submitted to Los Angeles Department of Regional Planning requesting after-the-fact authorization to remove 11 nests from four trees within the Mariners Village apartment complex on Marina Del Rey Parcel 113, and identified that the types of trees and numbers of nests removed was as follows: one nest was removed from a Lemon-Scented Gum Tree, one nest was removed from a Monterey Pine Tree, one nest was removed from an Aleppo Pine Tree, and eight nests were removed from a Red River Gum Tree. The locations of the trees are shown in [Exhibit 2](#).

On November 13, 2019, the Los Angeles County Department of Regional Planning approved local CDP No. RCDP-201400001 to authorize the unpermitted removal of 11 nests from four trees within the Mariners Village apartment complex ([Exhibit 4](#)). The local CDP also required Permit Specific Condition No. 18 mandating that the permittee participate in a mitigation program intended to mitigate the effects of unpermitted nest removal, which required the planting of four trees (one tree for each tree from which nests were removed for a total of four) to be planted within Yvonne B. Burke Park, and a five-year annual monitoring plan to ensure continued health of the mitigation trees. The cost of the mitigation program was not to exceed \$56,000.00. According to communication between Commission staff and DBH, the period of time that lapsed between the noticed violation and the issuance of the local CDP was in part due to the complexity of quantifying the resource impacts resulting from removal of the nests and adequately mitigating for the loss. This analysis was particularly complex because of the sensitivity of the affected resources. For instance, for several years after the removal of the nests, the applicant surveyed nesting at the site in order to help quantify the effect of removal of nests on colonial bird nesting. As reported in the County's local approval of the project, "Between 2014 and the present, the permittee retained the services of LSA, an environmental consulting firm, to conduct bird nesting surveys twice per month to gauge the effects of the nest removal and provide a baseline for nesting on the Project Site. In a letter, provided by LSA in January 2019, LSA determined that due to inadequate surveys before 2014, it is impossible to know definitively what effect the nest removal had on nesting water birds at the Project Site. Between 2014 and 2018 (starting the year following the unpermitted nest removal), the number of Double-Crested Cormorant nests increased, and the number of Great Blue Heron nests was stable, with a slight decrease over the same period. The surveys over the 2014-2018 timeframe indicate that the water bird nests were not decreased across the whole Project Site, though it is impossible to accurately know the effect of nest removal on the individual subject trees. Thus, the regional impact may be limited, but tree-specific impacts may exist."

B. LOCAL COASTAL PROGRAM CERTIFICATION

In 1984, the Commission certified the Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of

undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the Land Use Plan Amendment for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area A and the existing marina. The Commission certified the County of Los Angeles' revised Marina del Rey Land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area A, was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP.

C. FACTORS TO BE CONSIDERED IN SUBSTANTIAL ISSUE ANALYSIS

Factors Section 30625(b)(1) of the Coastal Act states that the Commission shall hear an appeal of a local government action carried out pursuant to Section 30600(b) unless it finds that no substantial issue exists as to conformity with the certified LCP and, if applicable, the access policies of Chapter 3 of the Coastal Act. The term "substantial issue" is not defined in the Coastal Act or its implementing regulations. Section 13115(b) of the Commission's regulations simply indicates that the Commission will hear an appeal unless it "finds that the appeal raises no significant question." In previous decisions on appeals, the Commission has been guided by the following five factors:

1. The degree of factual and legal support for the local government's decision that the development is consistent or inconsistent with the relevant provisions of the Coastal Act;
2. The extent and scope of the development as approved or denied by the local government;
3. The significance of the coastal resources affected by the decision;
4. The precedential value of the local government's decision for future interpretations of its LCP; and,
5. Whether the appeal raises local issues, or those of regional or statewide significance.

Even when the Commission chooses not to hear an appeal, appellants nevertheless may obtain judicial review of the local government's coastal permit decision by filing petition for a writ of mandate pursuant to Code of Civil Procedure, Section 1094.5.

Staff is recommending that the Commission find that a substantial issue exists with respect to the grounds on which an appeal has been filed pursuant to Section 30603(a) of the Coastal Act.

D. SUBSTANTIAL ISSUE ANALYSIS

As stated in Section IV of this report, the local coastal development permit may be appealed to the Commission on the grounds that the proposed development does not conform to the standards set forth in the certified Local Coastal Program (LCP) or the public access policies of the Coastal Act. Pursuant to Section 30625 of the Coastal Act, the Commission must assess whether the appeal raises a substantial issue as to the project's consistency with the certified LCP or, if applicable, the access policies of the Coastal Act.

It is staff's assessment that the appellants raise several substantial issues with the County approval of a CDP for this project. This staff report addresses the most significant issues in detail and recommends a fuller review of all of the issues when the Commission reviews the project de novo. The appellants contentions center around the protection of coastal biological resources that are protected by the following LCP policies.

Important Biological Resources

LUP Section B. Marine and Land Resources, Section 5. Important Biological Resources distinguishes between Environmentally Sensitive Habitat Areas (ESHA) as defined in the Coastal Act² and Important Biological Resources (IBR), as identified in the LUP. Prior to the 1990s, colonial waterbirds were relatively uncommon in the marina, however starting in the mid-1990s, colonial waterbirds began roosting and nesting in the mature ornamental and non-native landscape trees in Marina del Rey, and successfully adapted to the urban environment, and were not easily disturbed or degraded by human activities and developments. According to the LUP, their tolerance of human activities and developments failed to meet one critical element of the ESHA test – that they would be disturbed or degraded by human activities and developments. Additionally, neither the colonial waterbirds nor their nonnative habitat were considered rare or especially valuable because of their special nature or role in the ecosystem. Accordingly, the LUP

² Coastal Act Section 30240 defines Environmentally Sensitive Habitat Areas (ESHA) as areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities or developments. Thus, if an area is found to be ESHA, the area is governed by Section 30240 of the Coastal Act and cannot be developed except in ways that area resource dependent.

does not recognize ESHA as it relates to colonial waterbirds in Marina del Rey, and rather designates colonial waterbirds and their heronries as Important Biological Resources (IBR) and require policy protection as coastal resources per Coastal Act sections 30230, 30231, 30233, and 30250.

As provided below, the Marina Del Rey certified LCP contains a number of coastal resource protection policies that are applicable to this proposed project, including, but not limited to, the management and protection of colonial nesting waterbirds and their habitat.

Tree Management Policies No. 23 and 34 – Marina Del Rey Leasehold Tree Pruning and Tree Removal Policy

POLICY NO. 34 – MARINA DEL REY LEASEHOLD TREE PRUNING AND TREE REMOVAL POLICY

The purpose of this Policy is:

- 1.1 To establish guidelines within Marina del Rey for the pruning and removal of trees in accordance with the federal Migratory Bird Treaty Act and California Fish and Game Code, and to ensure the long-term protection of breeding, roosting and nesting habitats of federal and state-listed species, California Species of Special Concern, and colonial waterbirds.
- 1.2 To provide **Lessees** with guidelines and procedures for tree pruning and/or tree removal on leaseholds located in Marina del Rey in consideration of the colonial waterbird species, as the term is defined in Section 4.3 of this policy, and raptor species, as the term is defined in Section 4.12 of this policy, and the desire to reduce or eliminate impacts to their nesting habitats (emphasis added).

2.0 POLICY

This policy will be implemented by the County of Los Angeles Department of Beaches and Harbors (Department) for the purpose of overseeing the tree pruning and/or tree removal activities of Marina del Rey Lessees so as to minimize or avoid impacts to the nesting habitats established by colonial waterbird and raptor species on leasehold property.

The Department will enforce and implement this policy in compliance with the Migratory Bird Treaty Act which prohibits the taking, killing or possession of any migratory bird and, therefore, disturbance of any nesting bird is illegal. For clarification purposes, palms are included in any reference herein to trees. Lessees, in following the procedures set forth below, will carry out their tree

pruning and/or removal activities in cooperation with the Department and only with the explicit authorization of the Department prior to starting such work. Section 5.3 of this policy contains procedures for Lessees or their authorized representatives to follow when addressing immediate or imminent health and safety and emergency situations.

This policy is an outgrowth of Internal Policy No. 23 that has been carried out by the Department since 2003 to manage tree pruning and tree removal activities on County-operated Marina del Rey properties. The Department's Internal Policy No. 23, taken together with the annual surveys of breeding and nesting federal and state listed species, California Species of Special Concern and colonial waterbirds, as outlined in the 2010 Marina del Rey Conservation & Management Plan, will provide the basis for extending management and oversight to Lessee operated parcels. The surveys shall be conducted by a qualified biologist(s) in Marina del Rey in order to establish the long-term status and trends of these species, especially colonial waterbirds. The survey reports shall include photos of active and inactive nests.

Following completion of the Department's nesting colonial waterbird surveys each year, the Department will identify all leaseholds on which no nests of colonial waterbird or raptor species were found, and Lessees will be notified in writing that tree pruning activities may commence on the identified leaseholds during the non-breeding/non-nesting season.

Lessees are encouraged to utilize the Department's annual nesting colonial waterbird surveys as the basis for part or all of the surveys prepared by Lessee's qualified biologist (as the term is defined in Section 4.11 of this policy), where required by this policy, prior to the commencement of annual tree pruning on Marina del Rey leaseholds.

Lessee is required, under the "Rules and Regulations" provision of Marina del Rey leases, to ensure that all tree pruning and/or tree removal conducted on leaseholds located in Marina del Rey adheres to the guidelines and procedures outlined in this policy statement. Similarly, the policies and procedures contained herein apply to the ongoing maintenance of existing developments and may not be used to substitute for the project and landscaping approvals required by the County of Los Angeles for new development, re-development, or renovations.

Considering Marina del Rey's urban character, its abundance of trees, and the propensity of local herons and egrets to nest in a variety of arboreal settings, the potential will always exist for land-use conflicts to develop in the marina environment. Such conflicts could include health risks (such as co-location with restaurant uses or risks to humans from airborne pathogens), safety risks (such

as an unbalanced tree), and substantial interference with public amenities such as public parking or public walkways. In those limited circumstances, appropriate management responses could include pruning of trees during the nonbreeding/non-nesting season to make them unsuitable as nesting substrates. Any such "directed pruning" should be done during the non-breeding/nonnesting season which allows the affected birds an opportunity to select among ample nesting trees elsewhere in the nearby area. The annual nesting colonial waterbird surveys to be conducted by the Department or Department contractors are intended to include documentation of any apparent bird-human conflicts and make recommendations for how the conflicts might be resolved in ways that best respond to the Marina del Rey Conservation & Management Plan and normal public health, safety, and public-access consideration.

Department policy requires that all tree pruning and removal conducted in Marina del Rey adhere to the procedures outlined in this document (Policy 34). Tree pruning or removal is prohibited during the breeding/nesting season except to complete tree pruning activities started during the non-breeding/non-nesting season as prescribed in section 5.2 below on trees that annual surveys have shown are not active nesting trees and that have not been active nesting trees in the last five years **or** in the case of a health and safety emergency.

All tree pruning and removal shall be conducted in strict compliance with this policy. If a Lessee determines that pruning impacts a nest, or removal of a nesting tree is necessary for a reason other than a health and safety issue, a coastal development permit is required.

3.0 APPLICABLE STATUTES

3.1 California Fish and Game Code § 3503

"It is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by this code or any regulation made pursuant thereto."

3.2 California Fish and Game Code § 3513

"It is unlawful to take or possess any migratory non-game bird as designated in the Migratory Bird Treaty Act or any part of such migratory non-game bird except as provided by rules and regulations adopted by the Secretary of the Interior under provisions of the Migratory Treaty Act."

3.3 Migratory Bird Treaty Act- U.S. Code, Title 16, § 703

"Unless and except as permitted by regulations made as hereinafter provided, it

shall be unlawful at any time, by any means or in any manner, to pursue, hunt, take, capture, kill, attempt to take, capture, or kill, possess . . . any migratory bird, any part, nest, or egg of any such bird. . . included in the terms of the conventions between the United States and Great Britain for the protection of migratory birds concluded August 16, 1916, the United States and the United Mexican States for the protection of migratory birds and game mammals concluded February 7, 1936, the United States and the Government of Japan for the protection of migratory birds and birds in danger of extinction, and their environment concluded March 4, 1972[,] and the convention between the United States and the Union of Soviet Socialist Republics for the conservation of migratory birds and their environments concluded November 19, 1976."

3.4 Special Purpose Permits- U.S Code of Federal Regulations, Title 50, § 21.27

"Special purpose permit is required before any person may lawfully take, salvage, otherwise acquire, transport, or possess migratory birds, their parts, **nests**, or eggs for any purpose not covered by the standard form permits of this part." Permit applications are submitted to the U.S. Fish and Wildlife Service's Regional Office.

4.0 DEFINITIONS

4.1 Active Nest – A nest that is under construction or that contains eggs or young.

4.2 Breeding/Nesting Season – January 1 through September 30.

4.3 Colonial Waterbirds - Great Blue Heron (*Ardea herodias*), Black-crowned Night-Heron (*Nycticorax nycticorax*), Double-crested Cormorant (*Phalacrocorax auritus*), Great Egret (*Ardea alba*), Snowy Egret (*Egretta thula*).

4.4 Department - Los Angeles County Department of Beaches & Harbors.

4.5 Health Issue/Safety Issue - A natural occurrence, disaster, or disease jeopardizing public health or safety and that causes immediate or imminent danger to any person or property. A health and safety danger exists if a tree or branch is dead, diseased, dying, or injured and said tree or branch is in immediate or imminent danger of collapse or breaking away. Health risks include proximity of airborne pathogens or animal waste to human habitation or dining facilities.

4.6 Nesting Tree - A Tree as defined in 4.13 below containing Occupied or Unoccupied nests that have been used in the past five years or supporting evidence of courtship or nest building.

- 4.7 Non-breeding/Non-nesting Season - October 1 through December 31.
- 4.8 Non-nesting Tree - A Tree, as defined in 4.13 below, containing no nests or containing Unoccupied nests that have not been used in five or more years.
- 4.9 Occupied Nest - A nest that contains eggs or young.
- 4.10 Pruning - The horticultural practice of cutting away an unwanted, unnecessary, or unhealthy plant part, used most often on trees, shrubs, hedges, and woody vines. Pruning includes, but is not limited to, 1) eliminating branches that rub each other, 2) removing limbs that interfere with wires, building facades, gutters, roofs, chimneys, or windows, or that obstruct streets or sidewalks, 3) removing dead or weak limbs that pose a hazard or may lead to decay, 4) removing diseased or insect-infested limbs, 5) creating better structure to lessen wind resistance and reduce the potential for storm damage, 6) training young trees, 7) removing limbs damaged by adverse weather conditions, 8) removing branches, or thinning, to increase light penetration, and/or 9) improving the shape or silhouette of the tree.
- 4.11 Qualified Biologist - Graduation from an accredited college with a bachelor or higher degree in biological science or ornithology and at least two (2) years experience conducting nesting bird surveys or an arborist with a bachelor or higher degree in arboriculture and having at least two (2) years experience conducting nesting bird surveys.

5.0 **PROCEDURE**

Non-nesting trees on Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having no active Nests nor a history of nesting within five years will be exempt from sections 5.1.1 through 5.1.11 of this policy. Lessees will be notified in writing that tree pruning activities shall be carried out during the non-breeding/non-nesting season.

Leasehold parcels that are identified in the Department's annual nesting colonial waterbird survey as having active Nests will be required to follow the procedures contained in sections 5.1.1 through 5.1.11 of this Policy.

Regardless of the results of the Department's annual nesting colonial waterbird survey, all leasehold parcels proposing to conduct tree pruning or tree removal activities at any time must follow the procedures prescribed by this policy. Written authorization from the Department must be obtained before any action is undertaken that might disturb an active nest.

5.1 Tree Pruning and Removal Restrictions During Non-Breeding/Non-Nesting Season

5.1.1 Tree pruning and removal on all leaseholds in Marina del Rey shall be performed during the non-breeding/non-nesting season on all nesting trees and to the greatest extent possible on non-nesting trees.

5.1.2 During the non-breeding season, at least fourteen (14) days prior to tree pruning, the Lessee's qualified biologist shall coordinate with the Lessee's landscape contractor and survey the trees to be pruned or removed to detect nests by conducting a ground level visual inspection of the trees scheduled for pruning. The tree survey report shall include a map showing all the trees scheduled for pruning or removal and trees suspected to have active or unoccupied nests. Copies of the survey and map shall be submitted to and filed by the Department for public agency review.

5.1.3 Seven (7) days prior to the commencement of tree pruning activities, the Lessee's qualified biologist shall walk the entire area proposed for pruning with a pair of binoculars and/or spotting scope to determine whether the juveniles have fledged the nests and to evaluate whether the adults appear to be starting a new clutch (preparing to mate and lay eggs).

5.1.4 Upon complying with procedures described in subsections 5.1.1 through 5.1.3, no less than seven (7) days prior to the planned commencement of tree pruning or removal activities, the Lessee will notify the Department in writing with a copy of the survey report, plot plan and a tree pruning or removal plan prepared by the arborist or landscape contractor which addresses the following:

- a. A description of how work will occur (e.g. mechanized equipment, hand tools, phasing, etc.).
- b. Use of non-mechanized hand tools to the maximum extent feasible.
- c. Tree pruning and/or removal limits established in the field with flagging and stakes or construction fencing.
- d. Assurance that tree pruning will be the minimum necessary to accomplish the respective objectives.

Notification must include the name and credentials of Lessee's qualified biologist. Once the Department receives the tree survey report, plot plan and tree pruning or removal plan, the Department will notify the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG) and the California Coastal Commission (CCC) by submitting by e-mail, within (2) two

business days of receipt of Lessee's notice.

- 5.1.5 Nesting or non-nesting tree(s) that show current evidence of courtship may not be pruned in such a way that compromises the support structure of existing occupied or unoccupied nests. The amount of pruning at any one time shall be limited to preserve the suitability of the nesting tree for breeding and nesting habitat. Under limited circumstances, where a tree(s) is determined to be a health or safety issue, the Lessee, in consultation with a qualified biologist and with the prior approval of the Department, may conduct pruning so as to remove the empty nest and to discourage future nesting, or tree removal as appropriate.
- 5.1.6 Tree pruning or removal may not proceed if an active nest is found and/or evidence of courtship or nesting behavior is observed, even if it is occurring during the non-breeding/non-nesting season. Tree pruning or removal shall not occur any closer than 300 feet from these trees (500 feet in the case of an active raptor nest). In the event that any birds exhibiting breeding and nesting behavior continue to occupy the trees during the non-breeding/non-nesting season, Lessee shall immediately notify the Department and pruning or removal shall not take place until a qualified biologist has re-assessed the site, determined that breeding and nesting has ceased and given approval to proceed within 300 feet of any occupied tree (500 feet for raptor species). Following compliance with procedures described in subsections 5.1.1 through 5.1.3, the Department will notify the USFWS, CDFG, and the Executive Director of the CCC by e-mail within two (2) business days of receiving qualified biologist's determination.
- 5.1.7 Unoccupied nests that have not been used in five or more years may be removed (including those attached to dead palm fronds) only after the Lessee's qualified biologist documents and photographs the occurrence. Copies of the qualified biologist's report and photographs shall be forwarded to the Department within three (3) business days of the removal.
- 5.1.8 In the event that colonial waterbirds are observed to return during the nonbreeding/non-nesting season to a nest previously thought to be unoccupied while pruning operations are occurring, activities shall stop until the qualified biologist re-assesses the site. The qualified biologist may recommend proceeding conditionally, consistent with Section 5.2 of this Policy.
- 5.1.9 Special emphasis shall be placed on public safety during pruning operations, particularly when the operation is adjacent to bike paths, parking stalls, sidewalks, driveways or the promenade. Lessee must obtain advance written approval from the Department for the closure of any public promenade or sidewalk necessitated by the tree pruning work.

5.3 Health and Safety Issues & Emergencies

- 5.3.1 The Department shall determine if an immediate or imminent health and safety issue exists as described above. Lessees, with supporting documentation from a certified arborist, qualified biologist or public health official, shall notify the Department as soon as a health and safety issue is known. The Lessee shall be proactive in identifying and addressing injured, dying, or diseased trees and alerting the Department as early as possible during the Non-Breeding Season in order to avoid habitat disturbances during the nesting season.
- 5.3.2 Nesting or non-nesting trees posing an immediate or imminent health or safety issue should be pruned/removed immediately regardless of the presence of nest(s).
- 5.3.3 If the location or change in the condition of a tree located on any leasehold presents an immediate or imminent health and safety issue as described in the definitions above, Lessee shall submit a special permit application, as soon as possible, to the USFWS (see 3.4 above, Special Purpose Permits – U.S. Code of Federal Regulations, Title 50, § 21.27) and notify DCFG, and the Executive Director of the CCC, as soon as possible, while proceeding, as necessary, with tree removal or other remedies. When possible, the Lessee shall submit a special permit application and notify the Department and above agencies prior to tree removal or other remedies.
- 5.3.4 Lessee shall photograph and document the emergency occurrence, site conditions before and after the occurrence, and any observation of biological resources, and submit to Department a brief written report within fourteen (14) business days. The Department shall create an incident file that shall be available for public agency inspection.
- 5.3.5 Steps shall be taken to ensure that tree pruning or removal will be the minimum necessary, as determined by an arborist or Lessee's qualified biologist, to address the health and safety issue while avoiding or minimizing impacts to nesting birds and their habitat. Steps taken shall include the use of nonmechanized, hand tools whenever the emergency occurs within 300 feet of a nesting tree.
- 5.3.6 All trimmings must be removed from the site at the end of the business day and disposed of at an appropriate location.
- 5.3.7 Removal of any tree shall require mitigation at a 1:1 ratio. Replacement trees shall consist of native or non-native, non-invasive tree species. Lessee is required to develop a tree replacement planting plan for all trees to be removed, which plan should include the location, tree type, tree size, and planting

specifications and a monitoring program with specific performance standards. A tree replacement monitoring report shall be prepared and then updated annually for five years. The Lessee's annual monitoring report must be submitted to the Department prior to the start of each successive breeding/nesting season.

Waterbird Management Policies

The County will conduct waterbird population surveys on an annual basis, in order to track the status of colonies and to provide current information on the locations of active nests to the public, the County, resource agencies, and other regulators.

The County will also conduct periodic nesting colonial waterbird surveys (e.g., every 3–5 years) throughout the coastal slope of Los Angeles County to establish a regional context for the Marina del Rey colonies as funding permits. For example, the Snowy Egret is known to breed in fewer than five locations on the coastal slope of Los Angeles County, with Marina del Rey supporting one of the larger colonies. Should this continue to be the case, special care should be taken around the marina's Snowy Egret colonies, to help preclude a regional population decline.

Appellants Contention No. 1: The CDP authorized removal of nests which is inconsistent with the resource protection policies of the LCP and is development that cannot be authorized.

The Marina del Rey LCP identifies colonial waterbirds and their heronries as Important Biological Resources that require protection and contains robust policies that prioritize the protection of their habitat. Tree Trimming Policy No. 34 provides guidance for tree trimming and removal activities on Marina del Rey leasehold parcels consistent with the California Coastal Act, the Migratory Bird Treaty Act, and California Fish and Game Code requirements. The policies of the LUP and applicable statutes provide a framework to prohibit the taking, killing, or possession of any migratory bird, including their nests. Empty nests may be removed only when there are applicable health and safety issues or where it can be demonstrated that an unoccupied nest has not been used in the previous five or more years – however, in any case, a CDP is required for such a removal.

On November 7, 2013, the applicant requested authorization for the trimming, pruning and thinning of three trees on the project site, and on November 14, 2013, DBH authorized the pruning of three trees at the project site during non-breeding, non-nesting season, and did not authorize the removal of nests located within the subject trees. Between November and December of 2013, 11 nests were removed from four trees at the Project Site without prior authorization and therefore in violation of the policy. On November 13, 2019, Los Angeles County Department of Regional Planning authorized after-the-fact removal of 11 nests. These nests did not qualify for a health and safety exemption or other qualifying circumstances, and their removal is

inconsistent with the applicable LCP policies. Therefore, this contention raises a substantial issue.

Appellants Contention No. 2: The locally approved mitigation plan is insufficient because it requires planting of four small trees in a location where great blue herons do not nest, and it does not require monetary penalties which were contemplated in the County's Notice of Violation, which was issued more than six years ago.

Permit-Specific Condition No. 18 of the local CDP No. RCDP-201400001 required the applicant to participate in a mitigation program intended to mitigate the effects of unpermitted nest removal from within the Mariner's Village apartment complex grounds. The program required the planting of one 48-inch box tree for each tree from which nests were removed, for a total of four trees, to be planted within Yvonne B. Burke Park, which is a linear park located approximately one mile northeast of the area where the nests were removed. The mitigation program required a five-year monitoring program, and the applicant was responsible for the full cost of the mitigation program up to an amount not to exceed \$56,000.00.

According to the County's staff report, as a means of mitigating the removal of 11 nests (presumed to have been great blue heron nests), the County required the planting of one tree off-site for each tree from which nests were removed to ensure adequate nesting habitat would continue to exist. The County's rationale, as articulated in its staff report for requiring the trees to be planted in Yvonne B. Burke Park, was that "the placement of the new trees will complement the character of the existing Park" and "will not disrupt any of the recreational activities that occur within the Park." This characterization is contrary to the LUP which establishes the primacy of habitat values over recreational uses. Furthermore, the County's findings state "the provision of additional nesting habitat is a key component to maintaining healthy populations of marine organisms." However, the staff report lacked sufficient findings to support the proposed mitigation location as being a potentially successful location for colonial waterbirds. Thus, this contention raises a substantial issue.

Appellants Contention No. 3: The findings in the staff report do not support the County's conclusion that since no trees were removed, no harm was done to the habitat.

The appellants contend that the County erred in concluding that no impacts to habitat occurred from the nest removal based on nesting surveys conducted from the following year and that since the trees remain intact, they still provide suitable nesting habitat. However, great blue herons will reuse existing nests (which can weight up to 50

pounds) because they require so much time and energy to build.³ If the birds are required to build nests from scratch each season, they do not likely have the energy to produce as many offspring during the mating season. Therefore, removing their nests destroyed a very important component of their habitat.

Furthermore, the County adopted Tree Trimming Policy No. 34 in 2012, which mandated that the County conduct nesting surveys to inform their tree trimming and pruning permit process. However, no nesting survey was conducted for 2013, so there was no nesting data to rely on to determine what the impacts were from the nest removal. Therefore, this contention raises a substantial issue.

Appellants Contention No. 4: The County and E&S Ring Management Corporation continue to over-trim the trees suitable for nesting and roosting by colonial nesting birds, thereby reducing tree canopy coverage that is necessary for nesting.

The appellants contend that the landowner and lessee continue to approve excessive pruning and thinning of nesting trees that negatively impacts colonial water birds, specifically the great blue heron, that needs sufficient cover in the canopy of the trees in order for the nesting site to retain its suitability. The local CDP is limited to authorizing the specific project that was approved and does not approve other pruning and thinning or set general policies that apply to such work in Marina Del Rey. Thus, this contention does not raise a substantial issue with regard to the locally-approved project. However, Commission staff is reviewing how the County is implementing and enforcing its tree trimming policies.

Additional Issues Raised by Appellants:

The appellants also raise additional concerns, not as grounds for an appeal but as issues that should be considered during the de novo review of this application if the Commission finds substantial issues exist for the foregoing reasons detailed above.

The appellants request that fines be leveled against E & S Ring Management Corporation for the ecological damage caused by the violations, the cessation of trimming of all trees suitable for great blue heron nesting, tall mature trees be planted along Northwest Passage where 8 nests were removed, require tall mature eucalyptus and coral trees to be planted at Yvonne B. Burke Park for great egrets and snowy egrets to potentially return and colonize, and adopt a policy for no trimming of trees where nests exist, and require no removal of nests year round for all philopatric birds (those that return to the same nest again).

³ The Cornell Lab of Ornithology, Birds of the World <https://birdsoftheworld.org>

E. SUBSTANTIAL ISSUE – FIVE FACTORS

Applying the five factors typically relied upon by the Commission in making a determination whether an appeal raises a substantial issue or not confirms that the appeal does raise a “substantial issue” per Section 30625(b)(2).

The degree of factual and legal support for the local government’s decision that the development is consistent with the relevant provisions of the certified LCP.

The County determined that no habitat impacts resulted from the nest removal as no birds were harmed because the nests were unoccupied and removed outside of the typical nesting season, and the trees themselves were not removed and remain in place today. However, pursuant to LCP Policy No. 34, nests may only be removed for specific reasons, including health and safety, if they have not been used in five years, or some type of emergency situation. Neither the County nor the applicant provided evidence that the nests met any of the criteria which would allow them to be removed. Thus, there is a lack of factual and legal support for the County’s decision to permit removal of the nests, and this factor supports a finding of substantial issue.

The extent and scope of the development as approved or denied by the local government.

The County’s decision resulted in the after-the fact approval of removal of 11 nests, which cannot be authorized pursuant to the policies of the County’s LCP. The CDP required a mitigation plan, but this plan does not adequately address the impacts for the removal of the nests. The applicant’s action and the County’s approval of those actions may adversely impact bird species that the tree trimming policies were designed to protect. The development approved by the County is nevertheless relatively minor in scope, so this factor weighs against a finding of substantial issue.

The significance of the coastal resources affected by the decision.

In southern California, there has been a significant decline in wetland and coastal habitat and many such areas have been replaced by marinas or otherwise reduced due to urban development and encroachment. As a result, many bird species have adapted to use urban landscaping, including stands of ornamental trees, in areas near wetlands, coastal waters, and other open spaces. Bird species that frequent Marina del Rey and may use urban trees and other vegetation for foraging, roosting, or nesting activities include colonial waterbirds. In particular, herons and egrets have adapted by relocating their roosting and nesting sites to stands of tall non-native pines, palms, Ficus, and coral trees within highly developed areas. These species play a key role in maintaining an ecological balance that serves to sustain the biological productivity of coastal environments and maintain healthy populations of marine and coastal species. Thus, the coastal resource affected by the County’s decision are significant, and this factor weighs strongly in favor of finding substantial issue.

The precedential value of the local government's decision for future interpretations of its LCP.

Prevention and/or minimization of adverse impacts to significant coastal resources is an important issue not only to the County, but throughout the State. As expressed in the LCP, colonial-nesting water birds are important biological resources. The local approval contradicts the entire purpose of the tree trimming policies, which is to protect nesting birds and nesting trees from degradation. To allow this local permit to stand would set a negative precedent for the interpretation of the Marina del Rey LCP and Commission interpretations of the Coastal Act. Thus, substantial issue is supported by this factor as well.

Whether the appeal raises local issues, or those of regional or statewide significance.

For the reasons stated above, protection of coastal bird species and their habitat are primarily issues of local significance, however allowing the unpermitted destruction of bird nests that would potentially have been used again is ultimately destruction of habitat, which is an issue of statewide significance. This final factor also weighs in favor of finding substantial issue.

Conclusion

In conclusion, the appeal contentions raise substantial issues as to whether the County-approved project is consistent with the certified LCP. Factual and legal support for the County's decision to approve a coastal development permit for the proposed development is lacking, the coastal resources affected by the decision are significant, there is the potential for setting an adverse precedent regarding approving nest removal without a permit and destroying habitat for colonial waterbirds is a statewide issue. Given that all of these factors support a finding of substantial issue, the Commission finds that a substantial issue exists with regard to the contentions raised in the appeal.

VI. MOTION AND RESOLUTION - DE NOVO PERMIT

Motion:

I move that the Commission approve Coastal Development Permit Application No. A-5-MDR-19-0217 pursuant to the staff recommendation.

Staff recommends a **YES** vote. Passage of this motion will result in conditional approval of the permit as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves Coastal Development Permit Application No. A-5-MDR-19-0217 and adopts the findings set forth below on grounds that the development as conditioned will be in conformity with the Certified Local Coastal Plan. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that will substantially lessen any significant adverse impacts of the development on the environment.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent or interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions

of the permit.

5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

VIII. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. **Revised Final Mitigation Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit for review and written approval of the Executive Director two (2) sets of final site plans that substantially conform with the plans received by the Commission on June 23, 2021, but shall be revised to include the following:
 - A. The location of one nesting platform to be re-located from Oxford Basin to within the rip-rap of the UCLA property as depicted in **Exhibit 9**.
 - B. The location and types of trees shall be revised to include three Tecate cypress trees to be planted in Oxford Basin and two Monterey Cypress trees to be planted at Burton Chace Park.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

2. **Tree Planting Plan and Monitoring Program.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit, for the review and approval of the Executive Director, a tree planting plan and monitoring program prepared by a qualified arborist, which specifies the required tree species, tree locations, tree planting specifications, and a ten-year monitoring program with specific performance standards to ensure that the tree planting is successful. Five 24-inch box trees (three Tecate cypress trees and two Monterey cypress) shall be planted in the locations consistent with the site plan received by our office on June 23, 2021 (i.e. three Tecate cypress at Oxford Basin and two Monterey cypress at Burton Chase Park). An annual monitoring report on the trees shall be submitted for the review and approval of the Executive Director for 10 years. If monitoring indicates one or more of the trees have died or have failed to meet the performance standards specified in the monitoring program approved pursuant to this permit, the applicant shall submit a revised or supplemental plan to replace

any dead trees or treat any dying or diseased trees for the review and approval of the Executive Director.

- 3. Nesting Poles and Platforms Construction and Monitoring Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT the applicant shall submit, for the review and approval of the Executive Director, the proposed nesting pole locations, construction plans for the nesting poles and platforms, including plans for seeding the nest platforms with appropriate nesting material, and a monitoring plan that includes the following:

 - A. Breeding and nesting activity observations at the nesting poles once a month starting December 15st (wading birds begin courtship and nest building activities in December and their breeding and nesting season ends August 31). If no breeding or nesting activity is observed by May the monthly observations can end for that respective year. However, if a pair of birds has established a nest, monthly observations shall continue. Breeding and nesting activity observations recorded shall include but not be limited to:
 - i. Species of birds showing interest in nesting
 - ii. Evidence of nest building
 - iii. Presence of active nesting pair
 - iv. Indication of predator activity or nest pole tampering by human
 - v. Presence of hatchlings
 - vi. Number of chicks successfully fledged
 - B. Annual monitoring report submitted to the Executive Director by December 15th of each year that includes all of the breeding and nesting activity observations collected that year and any adaptive management suggestions to improve the nesting pole and platform success such as pole maintenance needs, additional nest material seeding, etc.
 - C. Final monitoring report submitted to the Executive Director by December 15th of the 5th? year of monitoring. The final reports shall evaluate the success of the nesting poles and platforms and provide suggestions to either maintain or improve the success into the future.
- 4. Contractor Education Program.** Prior to commencement of trimming activities, the project biologist shall conduct an onsite meeting with the landscape contractor to inform landscaping crews of biological resources of concern at the site, avoidance measures, removal limits and methods, and any materials relevant to the Tree Trimming Plan. The permittee shall ensure that the landscape contractor understands and agrees to observe the standards for work outlined in these Special Conditions and any deliverables.

5. Storage of Construction Materials, Mechanized Equipment and Removal of Construction Debris. The applicant shall comply with the following construction-related requirements:

- A. No demolition or construction materials, debris, equipment or waste shall be placed or stored in any location where it may enter or impact sensitive habitat areas, streams, wetlands, receiving waters or a storm drain, or be subject to wave, wind, rain, or tidal erosion and dispersion.
- B. The permittee shall employ Best Management Practices (BMPs) to ensure that erosion is minimized and the stream is protected from sedimentation.
- C. Any and all debris resulting from demolition or construction activities shall be removed from the project site within 24 hours of completion of the project.
- D. Demolition or construction debris and sediment shall be removed from work areas each day that demolition or construction occurs to prevent the accumulation of sediment and other debris that may be discharged into coastal waters.
- E. All trash and debris shall be disposed in the proper trash and recycling receptacles at the end of every construction day.
- F. The applicant shall provide adequate disposal facilities for solid waste, including excess concrete, produced during demolition or construction.
- G. Debris shall be disposed of at a legal disposal site or recycled at a recycling facility. If the disposal site is located in the coastal zone, a coastal development permit or an amendment to this permit shall be required before disposal can take place unless the Executive Director determines that no amendment or new permit is legally required.
- H. All stock piles and construction materials shall be covered, enclosed on all sides, shall be located as far away as possible from drain inlets and any waterway, and shall not be stored in contact with the soil.
- I. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. Thinners or solvents shall not be discharged into sanitary or storm sewer systems.
- J. The discharge of any hazardous materials into any receiving waters shall be prohibited.
- K. Spill prevention and control measures shall be implemented to ensure the proper handling and storage of petroleum products and other construction materials. Measures shall include a designated fueling and vehicle maintenance area with appropriate berms and protection to prevent any spillage of gasoline or related petroleum products or contact with runoff. The area shall be located as far away from the receiving waters and storm drain inlets as possible.
- L. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) designed to prevent spillage and/or runoff of demolition or construction-related materials, and to contain sediment or contaminants associated with

demolition or construction activity, shall be implemented prior to the on-set of such activity

- M. All BMPs shall be maintained in a functional condition throughout the duration of construction activity.

6. Conformance with the Requirements of the Resource Agencies and Local Agencies. Prior to construction, the permittee shall obtain all required permits and/or approvals of the California Department of Fish and Wildlife, California State Water Quality Control Board, Regional Water Quality Control Boards, U.S. Army Corps of Engineers, and the U.S. Fish and Wildlife Service with respect to preservation and protection of sensitive species, as well as the County of Los Angeles. The permittee shall comply with all permit conditions and mitigation measures imposed by state and local agencies with respect to the proposed development. Any change to the approved project that is required by any of the above-stated agencies shall be submitted to the Executive Director in order to determine if the proposed change shall require a permit amendment pursuant to the requirements of the Coastal Act and the California Code of Regulations.

IX. FINDINGS AND DECLARATIONS – DE NOVO PERMIT

Note: The Findings and Declarations in the Substantial Issue section of this staff report are hereby adopted by reference into the Findings and Declarations for the De Novo Permit.

A. Project Description and Location

In order to mitigate and address violations of the Coastal Act and Marina del Rey LCP related to the removal of 11 unoccupied nests, Commission staff recommended that the applicant submit a coastal development permit application to create and enhance nesting opportunities and habitat for colonial waterbirds (as addressed more fully in the Unpermitted Development section below). The proposal before the Commission is 1) the erection of two nesting poles in the northeast bank of Oxford Basin, each accommodating three nesting platforms⁴ for a total of six; 2) the planting of five Tecate Cypress (*Hesperocyparis forbesii*) trees; three in Oxford Basin and two on the western end of Burton Chace Park; and 3) the removal of existing concrete debris from Ballona Lagoon Canal to improve foraging habitat for wading birds in the area (**Exhibits 6 & 7**). The installation of nesting platforms and planting of trees are proposed in Marina del Rey, while the proposed concrete debris removal is proposed to occur in Ballona Lagoon, which is outside of the jurisdiction of the Marina del Rey LCP and is within Venice in the City of Los Angeles.

⁴ A nesting platform is an artificial nesting structure utilized by various types of birds, including double-crested cormorants, egrets, great blue herons, black-crowned night herons.

Marina del Rey is located in the southwestern portion of Los Angeles County, southeast of Venice and north of Playa del Rey. The community is surrounded by development to the north and west, and the Ballona Wetlands Ecological Reserve to the east and south. The 804-acre community includes 401 acres of developed land and 403 acres of water. Ballona Lagoon is located in the Venice Peninsula area of the City of Los Angeles, adjacent to the Marina del Rey entrance channel.

The nesting platforms are proposed to be installed within existing planted vegetation in the northeast bank of Oxford Basin, which is a tidally-influenced basin owned and operated by the Los Angeles County Flood Control District approximately 1 mile northwest of the Mariner's Village apartments where the nests were removed ([Exhibit 6](#)). The poles will be approximately 30-feet high above grade, with approximately 10-feet buried beneath the soil surface with a 10-inch base diameter. Each pole will support three nest platforms, which will be installed at approximately 4-foot intervals and staggered at 180 degrees, similar to the plans outlined by the Northern Prairie Research Center shown in [Exhibit 8](#). Three Tecate Cypress (*Hesperocyparis forbesii*) trees will be planted within an existing stand of trees composed of a mix of Ficus, pepper, eucalyptus, pine, corral, and palm trees.

Additionally, two Tecate Cypress (*Hesperocyparis forbesii*) trees are proposed to be planted in Burton Chace Park, at the end of Mindanao Way, which is located approximately half a mile to the northeast of the Mariner's Village complex, across the main channel of the marina. The area selected is on the west side of the park, adjacent to the open water of the marina and a fish cleaning station.

Finally, the applicant proposes to remove approximately 10 cubic yards of concrete debris along the western bank of the Ballona Lagoon, which is located approximately a quarter of a mile to the southwest of the Mariner's Village complex at Yawl Street utilizing a long-reach excavator from the top of the slope. Concrete debris will be picked up by the excavator and deposited into a "low-boy" trash bin also located on Yawl Street. The applicant estimates that equipment staging, debris removal, and equipment retrieval will take an estimated three to five days.

B. Standard of Review

Marina del Rey

In 1984, the Commission certified the County's Land Use Plan portion of the Marina Del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original

County LCP area. The Commission certified the LUP for the annexed area with suggested modifications on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area A was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP.

Venice, City of Los Angeles

The proposed concrete removal is located within the Commission's retained jurisdiction within the Venice segment of the City of Los Angeles. While there is a certified LUP for Venice, the portion of the project proposed within Ballona Lagoon is governed by Chapter Three of the Coastal Act, and the Venice Land Use Plan may be used as guidance.

C. Biological Resources

Subsection 4.a. of the Marine and Land Resources Section of the Marina del Rey LUP incorporates by reference the following relevant Coastal Act Sections:

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organism adequate for long-term commercial, recreational, scientific and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Nesting Platforms and Trees in Oxford Basin

As discussed, in order to provide nesting opportunities for colonial waterbirds as mitigation for the subject nest removal, the applicant is proposing to erect two nesting poles within existing vegetation on the northeast bank of the flood control basin (each with three nesting platforms), and plant three Tecate Cypress trees within an existing stand of trees between a housing community and bicycle path in a green space area in Oxford Basin ([Exhibit 6](#)). The poles are proposed to be erected in the northeast bank and incorporates a design that has been successful in recruiting breeding for great blue herons and other colonial nesting birds for at least forty years.

According to the County LCP, Oxford Basin is a tidally-influenced basin owned and operated by the Flood Control District that has been dedicated as a Bird Conservation Area. It was selected by the applicant because there is an existing stand of trees in this area composed of a mix of Ficus, pepper, eucalyptus, pine, corral and palm trees. Gaps in the canopy provide adequate space for three Tecate Cypress to be planted and grow to full maturity unimpeded, which will serve to elevate the canopy, providing a better vantage point for roosting and nesting herons. This stand is at the edge of an established nesting area which historically saw higher use (prior to reconstruction in 2015). Some nesting does continue in this area, but more distant from the basin since the basin is now more exposed from some vegetation removal. However, the basin is one of three areas known to provide some of the most important foraging for herons and egrets⁵ and provides prime foraging opportunities for wading birds and a variety are found foraging and roosting there on any given day. Therefore, providing suitable trees and platforms in this area is expected to enhance the habitat value for nesting in a location where these birds are already spending much of their time. Furthermore, the areas at Oxford Basin proposed for tree planting and platform installation are also more protected than other sites since the platforms would be inside a fenced area away from public use and the trees would be located away from roads/vehicle traffic and in a lower use portion of the park.

The Commission recently approved bird nesting platforms in Long Beach to mitigate for impacts to great blue heron nesting habitat in March 2021 (CDP No. 5-21-0060-W). A report prepared by Hamilton Biological, Inc., *Preliminary Report on City of Long Beach Nesting Structures for Herons, March 9, 2020* in that case utilized the following criteria based on observations of numerous great blue heron nesting colonies along the coast of southern California to select potential sites for the nesting structures:

- Site must be over, or close to, open water
- Site must not place the nesting herons in substantial conflict with existing or potential future human uses in the area where the structures would be established.
- Site must be accessible to vehicles for purposes of installation and maintenance.

⁵ Hamilton, F.A., and D.S. Cooper. 2010. *Conservation and Management Plan for Marina del Rey, Los Angeles County, California*. September 16.

- Site should be in or near an existing Marine Biological Reserve or mitigation area with pre-existing commitments from the [landowner] to preserve and maintain the site for biological resources.

To analyze the potential suitability for the proposed platform locations, Commission staff has applied these same criteria in this case since Long Beach and Marina del Rey both contain large recreational harbors that support colonial waterbirds. In this case, the proposed nesting platform locations are close to open water adjacent to Oxford Basin and are also more protected than other sites because the platforms would be inside a fenced area away from public use and the trees would be located away from roads/vehicle traffic and in a lower use portion of the park. Furthermore, the site can be accessed by vehicles for purposes of installation and maintenance via the Marvin Braude Bike Trail. Finally, the site is adjacent to Oxford Basin which, according to the Marina del Rey LUP, is “an area currently favored by many species that does not have significant human/bird conflicts. The basin must be managed carefully for its wildlife habitat values, along with providing for flood protection and water quality improvement. Levels of passive recreation and other non-essential human uses should not conflict with these main purposes.” In addition, Oxford Basin is approximately one mile northwest of the Ballona Ecological Reserve owned by the State of California. Both of these sites maintain commitments from their landowner to preserve and maintain the site for biological resources.

When the applicant was deciding what types of trees to propose to plant as mitigation for the nest removal, several options were discussed with Commission staff. Initially, one of the types of trees proposed was the Monterey pine (*Pinus radiata*) because it is native to California and is utilized by colonial nesting waterbirds. However, the County’s tree expert at that time had concerns about the existing Monterey pines in the marina, as they were succumbing to beetle infestations and were therefore in decline. Since the pine beetles are opportunistic and often infest trees that are vulnerable due to disease or stress such as from drought, his opinion was that Monterey pines being native to the central coast were not well adapted to hot summer climates of Southern California or drought conditions. Instead, the applicants proposed to plant Tecate Cypress (*Hesperocyparis forbesii*) because they determined it was better suited to our Mediterranean climate, would be more resistant to potential future droughts, and is included in the Southern California coastal section of the UC Climate Ready Trees Study.⁶ In addition, the County had evidence of such trees thriving in the Marina. Given this supporting information, Commission staff agreed Tecate cypress trees would be an adequate alternative.

Trees in Burton Chace Park

Burton Chace Park is a 10-acre park located on the east side of the main channel of the Marina. The applicant proposes to plant two Tecate Cypress trees at the far end of the

⁶ <https://climatereadytrees.ucdavis.edu/>

park at the end of Mindanao Way. Although there are higher-use areas of the park, the proposed location at the end of the park and immediately adjacent to the water is likely to result in fewer user conflicts and provides a prime vantage point of the harbor for roosting and nesting birds and will expand the waterside tree canopy on the west side of the marina. In 2020, at the east end of the park adjacent to the boathouse, a eucalyptus tree contained a double-crested cormorant nesting colony.

The week prior to publication of this staff report, Commission staff met with members of the public, including the appellants of the underlying local CDP, who were concerned that the proposed platform locations and types of trees proposed as mitigation for nest removal would not adequately provide nesting opportunities for great blue herons. Specifically, they objected to the nesting platforms and trees being installed in Oxford Basin since great blue herons are not currently nesting there and typically nest where other herons are nesting. Similarly, they objected to trees being planted in Burton Chace Park because great blue herons are not currently nesting in the vicinity. In addition, they were concerned that Tecate cypress trees would not grow tall enough at maturity (approximately 33-feet high) or be strong enough to support great blue herons, because great blue herons prefer taller trees that grow to be approximately 60-90 feet tall at maturity.

In order to specifically provide nesting opportunities for great blue herons, they suggested that the nesting platforms be located closer to trees where great blue herons are actively nesting such as within Mariner's Village, across the main channel at the U.S Coast Guard Station, or the UCLA Marina Aquatic Center. In addition, they requested that the taller Monterey Pine trees (approximately 160-feet tall at maturity) be utilized as an alternative to the Tecate cypress trees proposed because great blue herons prefer taller trees for nesting.

While Commission staff is confident that the proposed locations for nesting platforms and proposed types of trees are appropriate, in an effort to provide a mitigation plan that provides a more diverse mix of habitat that would be more attractive to various types of colonial waterbirds, Commission staff is recommending that one of the nesting platforms be relocated to the north side of Ballona Creek near the UCLA Marina Aquatic Center as shown in [Exhibit 9](#), and the two trees proposed for Burton Chace Park be Monterey cypress (*Cupressus macrocarpa*) to provide a mix of nesting opportunities and habitat for several types of colonial waterbirds. Since the mitigation plan will need to be updated to reflect this change, Commission staff is recommending **Special Condition 1**.

Concrete Removal from Ballona Lagoon

Ballona Lagoon is located in the Venice Peninsula area of the City of Los Angeles, adjacent to the Marina del Rey entrance channel. The lagoon is an artificially confined tidal slough connecting the Venice Canals to the Pacific Ocean via the Marina del Rey harbor entrance channel. In order to restore foraging habitat for colonial nesting waterbirds in the area, the applicant is also proposing to remove approximately 10 cubic

yards of concrete debris from the west bank of Ballona Lagoon near the end of Yawl Street to make more of the muddy bank available for wading bird foraging ([Exhibit 7](#)). As stated above, Ballona Lagoon is located outside of Marina del Rey in Venice, within the City of Los Angeles. In the portion of the lagoon at the end Yawl Street, there is an existing permanent open space and conservation easement recorded over the property and held by the City of Los Angeles as required in Coastal Development Permit Nos. A-5-VEN-01-279 & 5-01-257. These permits allow for “subtidal and intertidal habitat maintenance and the preservation of the natural and scenic character of the easement” which Commission staff believes allows for ongoing maintenance of the subtidal and intertidal habitat to include removal of the concrete debris. Thus, because the concrete removal is within the Commission’s retained jurisdiction and the Commission has already permitted ongoing maintenance of this part of the lagoon, a CDP from the City of Los Angeles to authorize this work is not necessary.

The applicant’s proposed Mitigation Plan has been reviewed and preliminarily approved by Commission staff, and is recommending the two trees proposed to be planted in Burton Chace Park are changed to Monterey cypress, and one of the nesting poles is relocated from Oxford Basin to the north side of Ballona Creek near the UCLA Marina Aquatic Center consistent with [Exhibit 9](#), and final approval of all aspects of the Habitat Restoration Plan must still be made, therefore, **Special Condition 1** requires the applicant to submit a revised Mitigation Plan for review and approval by the Executive Director, prior to issuance of the coastal development permit. **Special Conditions 2 and 3** require biological monitoring of the project. **Special Condition 4** requires project biologist to conduct an onsite meeting with the landscape contractor to inform landscaping crews of biological resources of concern at the site, avoidance measures, removal limits and methods, and any materials relevant to the Tree Trimming Plan to avoid future nest removal incidents. **Special Condition 5** requires the applicant to comply with all permit requirements of applicable resource agencies. As conditioned, the Commission finds that the proposed development complies with the habitat protection, preservation, and restoration policies in the County’s LCP and the Coastal Act.

D. Public Access and Recreation

Subsection A.1.a. of the Shoreline Access Section of the Marina del Rey LUP incorporates by reference the following relevant Coastal Act Sections:

Section 30210 of the Coastal Act states:

In carrying out the requirement of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public right, rights of private property owners, and natural resource areas from the overuse.

Section 30211 of the Coastal Act states:

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation.

Section 30212 of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

- (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,
- (2) adequate access exists nearby, or
- (3) agriculture would be adversely affected. Dedicated access way shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the access way.

(b) For purposes of this section, "new development" does not include:

- (1) Replacement of any structure pursuant to the provisions of subdivision (g) of Section 30610.
- (2) The demolition and reconstruction of a single-family residence; provided, that the reconstructed residence shall not exceed either the floor area, height or bulk of the former structure by more than 10 percent, and that the reconstructed residence shall be sited in the same location on the affected property as the former structure.
- (3) Improvements to any structure which do not change the intensity of its use, which do not increase either the floor area, height, or bulk of the structure by more than 10 percent, which do not block or impede public access, and which do not result in a seaward encroachment by the structure.
- (4) The reconstruction or repair of any seawall; provided, however, that the reconstructed or repaired seawall is not seaward of the location of the former structure.
- (5) Any repair or maintenance activity for which the commission has determined, pursuant to Section 30610, that a coastal development permit will be required unless the commission determines that the activity will have an adverse impact on lateral public access along the beach.

As used in this subdivision "bulk" means total interior cubic volume as measured from the exterior surface of the structure.

(c) Nothing in this division shall restrict public access nor shall it excuse the performance of duties and responsibilities of public agencies which are

required by Sections 66478.1 to 66478.14, inclusive, of the Government Code and by Section 4 of Article X of the California Constitution.

The proposed project will not change any aspects of public access adjacent to the proposed project locations, therefore, the project is consistent with Marina del Rey LCP and Sections 30210, 30211, and 30212 of the Coastal Act.

E. Water Quality

Subsection 4.b. of the Marine and Land Resources Section of the Marina del Rey LUP states the following:

Policy 4.5. All new development or redevelopment shall be designed to minimize erosion, sedimentation and other pollutants in runoff from construction-related activities to the maximum extent practicable. Development or redevelopment shall minimize land disturbance activities during construction (e.g., clearing, grading and cut-and-fill), especially in erosive areas (including steep slopes, unstable areas and erosive soils), to minimize the impacts on water quality.

Subsection 4.a. of the Marine and Land Resources Section of the Marina del Rey LUP incorporates by reference the following relevant Coastal Act Sections:

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organism adequate for long-term commercial, recreational, scientific and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

The proposed installation of nesting platforms and tree planting include measures to minimize the effect that these activities will have upon the marine environment. **Special Condition 5** requires the applicant to adhere to Best Management Practices related to erection of the nesting poles. Therefore, the Commission finds that the proposed development, as conditioned, conforms with Sections 30230 and 30231 of the Coastal Act and the relevant policies of the Marina del Rey LCP.

F. Local Coastal Program

Marina del Rey

In 1984, the Commission certified the Land Use Plan portion of the Marina del Rey/Ballona segment of the County of Los Angeles Local Coastal Program. Subsequent to the Commission's certification, the City of Los Angeles annexed over 525 acres of undeveloped land, which was a portion of the County's LCP area located south of Ballona Creek and east of Lincoln Boulevard (known as Area B and C). Subsequent to the City's annexation, the City submitted the identical Land Use Plan (the Playa Vista segment of the City's Local Coastal Program) covering the City's portion of the original County LCP area. The Commission certified the Land Use Plan Amendment for the annexed area with suggested modifications on December 9, 1986. The County also resubmitted those portions of their previously certified LUP that applied to areas still under County jurisdiction, including the area known as Area A and the existing marina. The Commission certified the County of Los Angeles' revised Marina del Rey Land Use Plan on December 9, 1986.

On September 12, 1990, the Commission certified an Implementation Program pertaining to the existing marina, with suggested modifications. The undeveloped area in the County, Playa Vista Area A was segmented from the marina and no ordinances were certified for the area. After accepting the suggested modifications, the Commission effectively certified the Marina del Rey LCP.

G. Unpermitted Development

Violations of the Coastal Act and LCP have occurred on the subject properties including, but not necessarily limited to, removal of 11 nests for colonial nesting water birds. In 2014, the County notified the lessee of the subject properties that the removal of nests constituted violations of the LCP and directed the lessee to work with the County to resolve the violations. In 2014, the lessee submitted an application to the County for a CDP to authorize the nest removal after the fact. For several years after submittal of the application, the applicant surveyed bird nesting at the site in order to help quantify the impacts of the violations on coastal resources. In 2019, the County approved a local CDP to authorize the nest removal after the fact. Commission staff

notified the County of its concerns that it appeared that the approval was not consistent with the LCP and that the proposal did not adequately mitigate the resource impacts of the violations or resolve the violations. Commission staff have worked with the County to revise the project to include additional mitigation measures, as well as revised mitigation measures, to best address the resource impacts that have resulted from the violations.

Approval of this application pursuant to the staff recommendation will require the applicant to install 2 nesting platforms and 5 trees, which will, collectively, provide more nesting opportunities for colonial nesting water birds than the 11 nests that were removed. In order to fully resolve the violations, the applicant will also, pursuant to the terms of this permit, enhance wading bird habitat in the Ballona Lagoon, in close proximity to the site of the violations. Approval of this application pursuant to the staff recommendation, issuance of the permit, and the applicant's subsequent compliance with all terms and conditions of the permit will result in resolution of the violations described herein.

Although development has taken place prior to submission of the permit application, consideration of this application by the Commission has been based solely upon the Chapter 3 policies of the Coastal Act and LCP. Commission review and action on this permit does not constitute a waiver of any legal action with regard to the alleged violations (or any other violations), nor does it constitute an implied statement of the Commission's position regarding the legality of development, other than the development addressed herein, undertaken on the subject site without a coastal permit.

H. California Environmental Quality Act (CEQA)

Section 13096(a) of the Commission's administrative regulations requires Commission approval of Coastal Development Permit applications to be supported by a finding showing the application, as conditioned by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available, which would substantially lessen any significant adverse effect which the activity may have on the environment.

The Los Angeles County Department of Regional Planning is the lead agency for the purposes of CEQA review. On October 31, 2014, the County found the project to be exempt pursuant to CEQA Guidelines section 15301 (Class 1 Existing Facilities Categorical Exemption).

As conditioned, there are no feasible alternatives or additional feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. Therefore, the Commission finds that the

proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative and complies with the applicable requirements of the Coastal Act to conform to CEQA.

Exhibit E – City of Newport Beach’s G-1 Tree Policy

RETENTION, REMOVAL, AND MAINTENANCE OF CITY TREES

Goal of Policy

To establish and maintain appropriate diversity in tree species and age classes to provide a stable and sustainable urban forest with an inventory that the City can reasonably maintain in a healthy and safe condition through the efficient use of City resources. To require that in approving any tree removal or reforestation request, the Parks, Beaches and Recreation Commission ("Commission") shall find that the tree removal request will not adversely impact the overall inventory, diversity and age of the City's Urban Forest. To educate the public of the protections of the City's Urban Forest and guide, in a user-friendly way, the mechanisms in place for tree replacements.

Purpose

The purpose of this policy is to establish definitive standards for the retention, removal, maintenance, reforestation, tree trimming standards, and supplemental trimming of City trees. City trees are an important part of the character and charm of the entire City and provide environmental benefits as well. Regular care, trimming, root pruning, maintenance, and programmed replacement are necessary to preserve this charm while at the same time protecting public views consistent with City Council Policy G-3, providing personal safety, and preventing public and private property damage and providing a sustainable urban forest.

The City classifies public trees in one of three categories: Special City Trees, Problem City Trees, and Standard City Trees.

I. SPECIAL CITY TREES

It is the City's policy to retain Special City Trees ("Special Trees") categorized as Landmark, Dedicated, or Neighborhood trees, because they have historical significance, and/ or contribute to, and give character to, a location or to an entire neighborhood. Landmark, Dedicated, and Neighborhood trees are identified by species in Exhibit A, and shall hereinafter be collectively referred to as Special Trees. Trees within these three categories shall be identified, mapped, recorded and administered by staff for the Commission. When staff proposes modifications, the Commission shall review the Special Tree list and forward recommendations for additions or deletions to the City Council for approval.

Landmark Trees are identified as those individual Special Trees that possess historical significance by virtue of their size, age, location, or species.

Dedicated Trees are Special Trees donated in the memory of specific individuals or organizations. Updates will be made annually to the City tree inventory system that correspond to the amended B-17 Policy: Parks, Facilities, and Recreation Program Donations. Exhibit A of this Policy will be updated annually to reflect updates.

Neighborhood Trees are Special Trees that by their unusual size, number, species, or location lend a special character to a residential, commercial, or business area.

All Special Trees shall be retained, unless there are overriding problems which will require their removal such as death, disease, interference with infrastructure, or the creation of a hazardous situation. Prior to considering the removal of any Special Tree(s), the Public Works Deputy Director, or designee, shall prepare a Tree Inspection Report, with a Tree Risk Assessment, identifying and implementing specific mitigation measures to retain the tree(s). For Landmark Tree(s), the Tree Risk Assessment shall include Level 3 Testing: Advanced Techniques to confirm the presence of any potential risks, unless waived by the City Council in advance. Where Tree Risk Assessment and Level 3 Testing: Advanced Techniques are required, the full costs of such testing and associated report will be the sole responsibility of the applicant. If the specific mitigation measures are unsuccessful or impractical in retaining a tree(s), then a full staff report shall be made to the Commission before any further action considering removal is taken. The reports shall also be provided to the Councilperson of the district in which the Special Tree is located. Prior to any removal of Special Tree(s), the City must comply with the noticing and appeal provisions set forth in Section IV.A (Removal of Special City Trees), unless a Special Tree is considered so hazardous as to necessitate an emergency removal. In the case of emergency removals, the Landscape Manager or the City Arborist shall have the authority to direct the removal of a hazardous tree.

Long term, most trees reach maturity and decline, and will be replaced one-for-one with the same species or the closest equivalent wherever possible. An alternate species may be recommended by Staff if the same species is unavailable and will be subject to approval by the Commission.

During normal sidewalk, curb, and street repair activity requiring root pruning, all steps shall be taken to retain Special Trees. If tree roots are to be pruned in association with sidewalk, curb, and gutter improvements, sufficient timing in advance must be planned to ensure that pruning will not destabilize or kill the tree. If both sides of a Special Tree's roots are to be pruned, one side should be pruned at minimum two years in advance of the other side depending upon the species and other related factors. If root pruning methods are not practical and/or critical to the health of the tree, then alternate or special hardscape improvements should be considered by the City in order to retain the tree providing that these measures are practical, costs are reasonable, and that they comply with Americans with Disabilities Act (ADA) standards. All proposed root pruning or other tree treatment shall be evaluated and approved by the City Arborist.

Special Trees may be considered for removal in conjunction with a City Council-approved beautification project utilizing the Removal of City Trees procedures as noted in Section IV.A. of this Policy.

II. PROBLEM CITY TREES

A Problem City Tree ("Problem Tree") is defined as a tree that by virtue of its species is known to cause excessive hardscape or utility damage due to its excessive root system. The following trees are defined as Problem Trees:

- Ficus nitida (Indian Laurel Fig)
- Ficus rubiginosa (Rusty Leaf Fig)
- Ficus benjamina (Weeping Fig)
- Fraxinus uhdei (Shamel Ash)
- Cupaniopsis anacardioides (Carrotwood)
- Liquidambar styraciflua (American Sweet Gum)
- Schinus terebinthifolius (Brazilian Pepper)

Problem Trees shall not be designated as City parkway trees on the Street Designation Tree List of City Council Policy G-6, unless they are Special Trees.

Problem Trees that are not designated Special Trees may be removed for the

following reasons:

A. The Problem Tree has had a repeated history of damaging public or private sewers, water mains, roadways, sidewalks, curbs, walls, fences, underground utilities, or foundations based on City records or other competent and reliable authority. Water or sewer blockage that results from tree roots and causes significant documented private property damage (greater than \$1,000.00) may be sufficient criterion for tree removal; or

B. The Problem Tree has had a repeated history of significant interference with street or sidewalk drainage, despite specific treatment by the City to alleviate repeated damage; or

C. The Problem Tree has created, in the opinion of the City Arborist, a view impediment that cannot be resolved by normal nor alternative tree trimming procedures.

Problem Trees may be proposed for removal by either staff or private property owners. The City Arborist has the authority to remove Problem Trees. No more than 50 Problem Trees may be removed per year by staff under the above criteria without special approval of the Commission. Replacement trees of a minimum 36-inch box size shall be planted if funding, availability and growth space permits.

Staff is responsible for notifying the adjacent property owner, the legally established homeowners association, if applicable, and the Councilperson of the district where the removal is proposed, of the intent to remove a Problem Tree. The decision by the City Arborist to remove a problem tree is final unless called up by at least one Councilperson. The City Arborist shall report the removal of Problem Trees under the above criteria on a monthly basis to the Commission. The cost to remove and replace Problem Trees will be the sole responsibility of the City based on funding, availability and growth space, except for Category C (view).

III. STANDARD CITY TREES

A City tree which is located on City real property (parkways, parks, other City-owned property) and not designated as a Special or Problem Tree is designated as a Standard City Tree ("Standard Tree"). It is the City's policy to retain Standard Trees unless removal is necessary for one of the following reasons:

- A. The City tree has had a repeated history of damaging public or private sewers, water mains, roadways, sidewalks, curbs, walls, fences, underground utilities, or foundations based on City records or other competent and reliable authority. Water or sewer blockage that results from City tree roots and causes significant public or private property damage (greater than \$1,000.00) may be sufficient criterion for tree removal; or
- B. The City tree has had a repeated history of significant interference with street or sidewalk drainage; or
- C. The City tree is dead, diseased, dying, or hazardous, and presents a liability to the City. A dead tree is one that has been assessed by the City Arborist and found to have deceased. Diseased trees are defined as those trees that cannot be cured by current arboricultural methods, are in an advanced state of decline, and have no prospect of recovery. Dying trees are those that have no prospect of recovery. Hazardous trees are defined as those that are defective, have a potential to fail, and would cause damage to persons and property upon failure. The City Arborist will perform a Level 2: Basic, Tree Risk Assessment whenever a tree is identified as hazardous. The assessment will identify: structural defects of the tree, parts of the tree most likely to fail, targets where imminent personal injury or property damage may result with tree failure, and procedures or actions necessary to mitigate the hazard. After assessment, the City Arborist will expeditiously convey his written findings and recommendations to the Landscape Manager for evaluation. In the case of imminent tree failure, the Landscape Manager or the City Arborist shall have the authority to direct the emergency removal of a hazardous tree without further approvals; or
- D. The tree(s) have been requested to be removed in conjunction with a City Council-approved City, commercial, neighborhood, or home owners' association beautification program; or
- E. The tree(s) have been requested to be removed in conjunction with a commercial or residential project. Approval will only be granted if the City tree unreasonably impedes the planned construction. In these cases, the applicant will coordinate and assume all costs for the removal and replacement. Replacements will be a minimum of 36-inch box size, but

larger sizes may be required at the Landscape Manager's discretion; or

- F. The City Manager, upon the advice of the Public Works Deputy Director, City Attorney, Risk Manager or the Traffic Engineer, shall have the authority to remove individual Problem or Standard Trees to resolve claims or safety issues.

IV. REMOVAL OF CITY TREES

A flowchart detailing tree removal procedures is available on the Public Work's website: www.newportbeachca.gov/government/departments/public-works/municipal-operations

The initiation to remove City tree(s) may be made by the staff of the Public Works Department, a home owners' association, or a private property owner by submitting an application to the City Arborist, utilizing the City Tree Removal form available on the Public Works website:

www.newportbeachca.gov/government/departments/public-works/municipal-operations

The City will replace all trees removed in accordance with the Standard Trees removal criteria on a one for one basis, as funding, availability and growth space permits. Replacement trees will be a minimum of a 36-inch boxed size. If 36-inch boxed trees are not available or funding or space constraints prevent planting of a 36-inch boxed tree, then the largest tree available for the space available will be planted. The full costs of removal and replacement of all City Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily pays for a new tree(s), or desires to upgrade to a box size larger than a 36-inch box as a replacement (if available), then the resident will be responsible for the difference in price.

A. Removal of Special City Trees

- Special Trees, other than Landmark Trees, may be considered for removal under the same criteria as Standard Trees in Section III if a full staff report, prepared by the Public Works Deputy Director and approved by the City Manager, is provided to the Commission detailing the necessity of removal and any specific previous

treatment of the tree.

- Removal of a Special Tree(s) is initiated by submitting an application utilizing the City Tree Removal form.
- After receipt of the application, a Tree Inspection Report shall be prepared by the City Arborist to determine if the tree(s) meets the criteria for consideration for removal outlined in Section III. The City Arborist shall determine whether in his/her judgment additional specific mitigation measures can be initiated to retain the tree provided the costs are reasonable.
- Private property owners, residential communities, neighborhoods, or business organizations who apply for a Special Tree removal(s) must submit a petition signed by a minimum of 60% of City of Newport Beach property owners within a radius of 500 feet from the location of the proposed tree removal. The petition content must be approved and dated by City staff prior to distribution by the applicant. The staff-approved petition must be distributed by the applicant to all private property owners within the 500-foot radius. Signatures by non-property owners are not acceptable for petition purposes, and there may be no more than one signature per property. All petition signatures shall be verified by City staff for property owner status of the person(s) signing the petition.
- Private property owners represented by a homeowners' association with mandatory membership and within the 500-foot radius must, instead of the above petition procedure, submit a petition through their association. The association shall submit a resolution of the Board of Directors formally requesting a Special Tree removal(s) with a statement that all members of the homeowners' association affected have been officially notified and given an appropriate opportunity to respond before the Board voted on the request.
- The City Arborist shall also provide a notice of the proposed tree removal to the adjacent property owner (if not the applicant), the private property owners immediately adjacent to the applicant's property, and the appropriate home owners' association if applicable

(not applicable to the emergency removal of hazardous trees under Section I (Special Trees)).

- Once a recommendation is made by the City Arborist and the Landscape Manager to the Public Works Deputy Director or designee and the Deputy Director concurs, then the applicant, the adjoining owners, and private property owners within a 500-foot radius of the tree location, and a home owners' association if applicable, shall be notified of the recommendation at least 30 days before the Commission meeting. A home owners' association is responsible for notification of all association members pursuant to their established procedure.
- An 8" x 5" placard with a City contact number will be posted on the subject Special Tree(s) considered for removal at least 30 days before the Commission meeting. The date of the posting will be written on the placard.
- The Public Works Deputy Director, or a designee, shall prepare a full staff report for a regularly scheduled Commission meeting of all trees recommended for removal, except for the emergency removal of hazardous trees in Section I (Special City Trees) of this Policy.
- Following Commission approval for removal of a Special Tree(s), the tree(s) will be posted with a new 8" x 5" placard at least 30 days prior to the removal notifying the public that they have the right to appeal. The placard shall also note a Staff contact number and a date on which it was posted.
- Any appeal to the Council regarding a Commission tree decision must be received by the Public Works Deputy Director no later than 30 calendar days following the date of the above reposting after the Commission decision. The Public Works Deputy Director will delay any tree removals until the appeal period has expired or until the Council has acted upon the appeal.
- The full costs of removal and replacement of Special Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily

pays for a new tree(s).

B. Removal of Problem City Trees

- Problem Trees may be proposed for removal by either City staff, a home owners' association, or private property owners by written application utilizing the City Tree Removal form. The City Arborist has the authority to remove Problem Trees.
- If there are no removal criteria other than it being a Problem Tree species, then no more than 50 Problem Trees may be removed per year by staff without special approval of the Commission.
- If there are no removal criteria other than it being a Problem Tree species, then no more than one of three problem parkway trees in a continuous row may be removed in a one year period unless part of a reforestation approved by the Commission. Replacement trees of a 36" boxed size shall be planted if funding, availability, and growth space permits.
- Staff is responsible for providing advance written notification, as applicable, to the adjacent property owner, the legally established homeowners association, and the Councilperson of the district where the removal is proposed of the intent to remove or retain a Problem Tree.
- Except for those trees categorized as Item C (dead, diseased, or dying trees) or Item F (claims and safety issues) in Section III (Standard City Trees), all Problem Tree removal(s) shall be posted with a minimum 8" x 5" placard at least 14 calendar days prior to the scheduled removal. The placard shall also note a Staff contact number and a date on which it was posted. Unless deemed an emergency, posting for the removal of dead, diseased, or hazardous trees shall be at least 72-hours prior to the scheduled removal.
- The decision by the Landscape Manager to remove a problem tree is final unless called up by at least one Councilperson. The City

Arborist shall report the removal of Problem Trees on a monthly basis to the Commission.

- The cost to remove and replace Problem Trees will be the sole responsibility of the City based on availability of funding, with the exception of Category C (view) in Section II, which is the sole responsibility of the applicant.

C. Removal of Standard City Trees

- The initiation to remove a Standard Tree(s) may be made by the staff of the Public Works Department, a home owners' association, or a private property owner by submitting an application to the Landscape Manager, utilizing the City Tree Removal form.
- After receipt of the application, a Tree Inspection Report shall be prepared by the City Arborist to determine if the tree(s) meets the criteria for consideration for removal as outlined in the above Section III (Standard City Trees). The City Arborist shall determine whether in his/her judgment additional specific mitigation can be initiated to retain the tree provided the costs are reasonable.
- Once a recommendation is made by the City Arborist to the Landscape Manager, or designee, and the Manager agrees with the recommendation, the City may remove the tree(s). The authority to remove Standard Trees rests with the Landscape Manager.
- Staff is responsible for providing advance written notification, as applicable, to the adjacent property owner, the legally established homeowners association, and the Councilperson of the district where the removal is proposed of the intent to remove or retain a Standard Tree.
- Except for those trees categorized as Item C (dead, diseased, or dying trees) or Item F (claims and safety issues) in Section III (Standard City Trees), all Standard Tree removal(s) shall be posted with a minimum 8" x 5" placard at least 14 calendar days prior to the

scheduled removal. The placard shall also note a Staff contact number and a date on which it was posted. Unless deemed an emergency, posting for the dead, diseased, or hazardous trees shall be at least 72-hours prior to the scheduled removal.

- Any appeal to the Commission regarding a tree decision must be received by the Public Works Deputy Director no later than 14 calendar days following the date of posting or notice of intent. The Public Works Deputy Director will delay any tree removals until the appeal period has expired or until the Commission has acted upon an appeal.
- The City will replace all trees removed in accordance with the Standard Trees removal criteria on a one for one basis. Replacement trees will be a minimum of a 36" boxed size. If 36" boxed trees are not available, or funding or space constraints prevent planting of a 36-inch box tree, then the largest tree available for the space available will be planted. If resident/ applicant desires to upgrade to a 48-inch boxed tree or larger, the resident/ applicant will be responsible for the difference in price.
- The full costs of removal and replacement of Standard Tree(s) will be the sole responsibility of the City, unless an applicant voluntarily pays for a new tree(s) or desires to upgrade to box size larger than 36-inch planted as a replacement, then the applicant will be responsible for the difference in price.

V. REFORESTATION OF CITY TREES

A. Description of Reforestation

Reforestation is defined as the concept of systematically replacing Problem or Standard Trees which are creating hardscape and/ or view problems and cannot be properly trimmed, pruned or modified to alleviate the problem(s) they create; or those which have reached their full life and are declining in health; or are simply the wrong species of trees for the planted location.

It is recognized and acknowledged that many City trees were planted years ago and in some cases were planted with specific species that when fully mature cause

damage to curb, gutter, sidewalk or underground utilities. Within the geographical boundaries of certain view neighborhoods, City street trees may encroach into blue water views from public and private property depending on the length of time since the trees were last trimmed, or the age and height of the trees. In other cases, the wrong species of tree was planted originally and simply does not conform to the current treescape or may represent a safety hazard. The City Street Tree Designation List and the City Parkway Tree Designation List attached to City Council Policy G-6 reflect an effort by the City to designate appropriate tree species that will not cause future problems.

The City understands the importance of trees and the beauty they bring to a community, and desires to continually improve the urban forest through reforestation. In areas where City trees have been removed through City initiation, the City will endeavor to replace the trees one for one with the appropriate street tree.

B. Application for Reforestation

Individual private property owners, as well as home owners associations, may apply for single or multiple tree reforestations in their respective area by submitting a request to the Landscape Manager for consideration by the Commission that meets the following requirements:

- The proposed area must have clearly defined contiguous geographical boundaries that include the tree(s) proposed for removal and replacement, street address(es), block number(s), or other geographical information. This Section applies to individual and group requests.
- Residential communities, neighborhoods, or business organizations who apply for reforestation must submit a petition signed by a minimum of 60% of City of Newport Beach property owners within a radius of 500 feet from the location of the proposed reforestation. The petition content must be approved and dated by City staff prior to distribution by the petitioner. The staff-approved petition must be distributed by the petitioner to all private property owners within the 500-foot radius. Signatures by non-property owners are not acceptable for petition purposes, and there may be no more than one

signature per property. All petition signatures shall be verified by City staff for property owner status of the person(s) signing the petition.

- Individual private property owners not residing within a home owners' association area may submit individual requests for reforestations. The applicant must submit a petition signed by a minimum of 60% of all City of Newport Beach private property owners within a radius of 500 feet from the location of the proposed reforestation site. The petition content must be approved and dated by staff prior to distribution. All petition signatures shall be verified by City staff for private property owner status of the person(s) signing the petition.
- Private property owners represented by a home owners' association with mandatory membership and within the 500-foot radius must, instead of the above petition procedure, submit a petition through their association. The association shall submit a resolution of the Board of Directors formally requesting a reforestation with a statement that all members of the homeowners' association affected have been officially notified and given an appropriate opportunity to respond before the Board voted on the request.
- A written agreement must be submitted to the Parks, Beaches and Recreation Commission by the petitioning sponsor (individual private property owner(s) or group) to pay 100% of the costs of the removal and replacement of the public tree(s) in advance of any removal activity. The actual removal and replanting will be coordinated by the Public Works Department, Municipal Operations Division. The total costs shall include only the contractor's removal and replacement costs and be paid in advance of any removal actions.
- The replacement tree(s) for reforestation shall be an appropriate tree that meets the criteria of the City's Street Tree Designation List or the City Parkway Tree Designation List as identified in City Council Policy G-6, or the applicant (person, group, or organization) must request and obtain approval from the Commission of the

designation of a different tree species prior to submitting any reforestation request for a tree species other than the designated street tree, or an appropriate species based on the City Tree Designation Lists. This Section applies to individual or group requests.

- There shall be a minimum of a one for one replacement of all trees removed in reforestation projects. Replacement trees shall be a minimum size of 36-inch boxed trees, unless the parkway space will not accommodate a 36-inch boxed tree or a tree cannot be planted due to planting restrictions contained in City Council Policy G-6. Per the Landscape Manager's discretion, a larger sized box tree may be required if it is replacing a tree of significant size or value in the City's inventory and ample planting space is available. If there is not room for the replacement tree(s) at a specific site as designated by City Council Policy G-6, then the replacement tree(s) shall be planted in a public area in the same neighborhood at the option of the petitioner. This Section applies to individual or group requests.
- Reforestation requests must be completed and submitted in a timely manner by the petitioner. Petitions that are dated more than 90 days past the date stamped by staff before distribution will not be forwarded to the Commission for consideration. The Landscape Manager may extend this timeframe at his or her discretion. The completed reforestation application will go to the Commission to decide whether to accept or deny the requested reforestation. The decision of the Commission on reforestation requests will be considered final unless called up by at least one Councilmember or the City Manager.
- Trees being considered for Reforestation by the Commission shall be posted with a minimum 8" x 5" placard at least 14 calendar days prior to the scheduled meeting. The placard shall also note a Staff contact number and a date on which it was posted.
- The City shall require the proper care and watering of replacement trees by the reforestation petitioner to ensure their proper growth and development as outlined in City Council Policy G-6. Section

13.090.030 of the Municipal Code outlines what is expected of property owners in regards to proper care of parkway trees adjacent to their property.

VI. TREE MAINTENANCE

The City will endeavor to fund the care of the Urban Forest to the highest level possible through the efficient use of regular tree trimming, root pruning, root barrier and pesticide programs in accordance with City Council Policy G-6. Section 13.08.040 of the Municipal Code prohibits any person from tampering with City trees.

VII. ENCROACHMENT AND DEMOLITION PERMITS

All encroachment permits (permits for private property development which are proposed to install improvements in the City right of way) or demolition permits that involve the removal or replacement of City tree(s) must be specifically noticed by the property owner to City staff prior to the building and/ or demolition permit process whenever possible. The proposed construction plans must indicate preservation of existing City trees wherever possible (except trees that are dead, dying, or in an advanced state of decline). If the proposed development requires the removal of City trees (that are not dead, dying or in decline), the property owner must submit a tree removal form to the Landscape Manager, pay for all related tree removal and one-for-one replacement costs, and meet all provisions of City Council Policies L-2 and L-6 and City Municipal Code Sections 13.08 and 13.09, or any successor policies or sections. Approval or disapproval of all tree removal/replacement requests associated with encroachment and demolition permits will be the responsibility of the Public Works Deputy Director or a designee.

VIII. TREE TRIMMING STANDARDS

The City Council has adopted tree trimming cycles for trees of different ages and species. Tree trimming cycles and trimming standards shall represent the maximum feasible frequency given current fiscal conditions. Except as provided in the Supplemental Trimming Section below, trimming shall be in accordance with the standards of the International Society of Arboriculture (ISA). In those communities with a home owners' association, periodic tree trimming with an

emphasis on crown reduction or vista trimming will be considered by the City Arborist upon written request by the association.

IX. SUPPLEMENTAL TREE TRIMMING

The City will consider requests to trim certain trees more frequently or to trim trees consistent with practices applied prior to the adoption of ISA standards (to enhance public and private views, preserve required sight/distance standards, or other public purposes) which are submitted by affected private property owners or the board of a home owners' association and the request is accompanied by a completed "Supplemental Tree Trimming Form" and full payment for the requested tree trimming. However, since these practices often require 'topping' or possible disfiguring of a tree(s) and are often aesthetically displeasing and injurious to a tree, reforestation shall be considered when supplemental tree trimming is impractical or infeasible as determined by the City Arborist.

The Landscape Manager shall establish procedures to implement the supplemental trimming provisions of this Policy. In areas with an active homeowners association, approval must be obtained from a legally established association by the requestor of supplemental tree trimming if the requested trimming is to be undertaken within the association boundaries.

[Attachment - Exhibit A Special City Trees]

History

Adopted 1-9 - 5-9-1966

Reaffirmed 1-9 - 8-30-1966

Amended 1-9 - 8-14-1967

Reaffirmed 1-9 -11-12-1968

Reaffirmed 1-9 - 3-9-1970

Reaffirmed 1-9 - 2-14-1972

Amended 1-9 -11-9-1976

Amended 1-9 -11-12-1985

Amended 1-9 -11-28-1988

Amended 1-9 - 3-14-1994 (changed to G-1)

Amended G-1 - 4-11-1994
Amended G-1 - 2-26-1996
Amended G-1 - 7-14-1997
Amended G-1 (Administratively)-11-24-1997
Amended G-1 - 8-10-1998
Amended G-1 -1-25-1999
Amended G-1 - 2-22-2000
Amended G-1 - 4-23-2002
Amended G-1 -4-27-2004
Amended G-1 -10-11-2011
Amended G-1 - 9-8-2015
Amended G-1 - 8-8-2017
Amended G-1 - 2-9-2021

EXHIBIT A
SPECIAL CITY TREES

**LANDMARK
TREES**

Balboa Boulevard Median	<i>Araucaria heterophylla</i> (1)
Balboa Library ⁴	<i>Eucalyptus globulus</i> (3)
Balboa Library	<i>Phoenix canariensis</i> (1)
Bob Henry Park	<i>Ficus rubiginosa</i> (1)
Castaways Park	<i>Phoenix canariensis</i> (1)
Lido Hotel Site	<i>Ficus microcarpa</i> 'Nitida' (2)
Dover Drive east of Irvine Avenue	<i>Erythrina caffra</i> (1)
Dover Drive at Westcliff	<i>Liquidambar styraciflua</i> (4)
John Wayne Park	<i>Erythrina caffra</i> (1)
Lido Isle Medians	<i>Pinus pinea</i> (4)
Main Street	<i>Ficus microcarpa</i> 'Nitida' (1)
Marine Avenue (Balboa Island)	<i>Eucalyptus</i> (Various Species)(47)
Ocean Blvd. Corona del Mar	<i>Phoenix canariensis</i> (5)
Wedge Area	<i>Myoporum laetum</i> (2)
West Jetty View Park (near Historical Marker)	<i>Phoenix canariensis</i> (2)
Westcliff & Dover (Groves) Bike Trail	<i>Eucalyptus globulus</i> (49)

**DEDICATED
TREES**

Bayside Park (Newport-Irvine Rotary Club)	<i>Pyrus calleryana</i>
Bayview Park (Gene Atherton)	<i>Cinnamomum camphora</i>
Begonia Park (Dr. Leo V. Turgeon)	<i>Bauhinia blakeana</i>
Begonia Park (Cheryl Bailey Ringwald)	<i>Prunus cerasifera</i>
Bob Henry Park (Bob Henry)	<i>Ficus rubiginosa</i>
Bonita Canyon Sports Park (Elaine Linhoff) (Fern Pirkle)	<i>Melaluca linariifolia</i>
Buffalo Hills Park (Bahia Community Earth Day Celebration)	<i>Erythrina caffra</i>
Buffalo Hills Park (N. Beach Sunrise Rotary Club)	<i>Stenocarpus sinuatus</i>
Castaways Park (Kevin Murphy) (Mary Louise Romine)	<i>Pinus torreyana</i>

Castaways Park (Joe Clarkson) (Michael F. Gustin) (Arthur Grant Kidman Junior) (Grover Stephens, PH.D.) (Arthur C. Wahlstedt, Jr.) (John D. Woodruff)	<i>Platanus racemosa</i>
Castaways Park (Nancy Bergeson) (Logan David Burley) (Sawyer Dean Burley) (Sawyer Dean Burley) (Bob & Susan Caustin) (Joe Clarkson) (Yen Chu Kuo) (Ryan Lemmon) (Virginia Najera) (Eva Victoria Najera) (David Rapp) (Nancy & Jack Skinner) (Staycee Stone) (Jason Stradtman) (Robert T. Talbot) (Jan Vandersloot) (Jean Watt)	<i>Quercus agrifolia</i>
Castaways Park (Gregory Courteau)	<i>Quercus kelloggii</i>
Cliff Drive Park (Susan Benz)	<i>Bauhinia blakeana</i>
Cliff Drive Park (Francis P. Hemenway)	<i>Cassia leptophylla</i>
Cliff Drive Park (Gary Lovell) (Dr. Vandersloot)	<i>Quercus agrifolia</i>
Eastbluff Park (Lucy Huntsman)	<i>Hymenosporum flavum</i>
Eastbluff Park (Billy Covert)	<i>Ficus macrophylla</i>
Galaxy View Park (Trey Hunter)	<i>Cupaniopsis anacardioides</i>
Galaxy View Park (Dylan Ayres)	<i>Metrosideros excelsa</i>
Gateway Park	<i>Cassia leptophylla</i>

(Virgina Herberts)	
Grant Howald Park	Cassia leptophylla
(Jean & Coalson Morris)	
Grant Howald Park	Hymenosporum flavum
(Skipper Mark Howes)	
Grant Howald Park	Metrosideros excelsus
(Mark Munro)	
(Pete Munro)	
Grant Howald Park	Spathodea campanulata
(Cara Lee)	
Irvine Terrace Park	Platanus racemose
(Beckett Glyer)	
Irvine Terrace Park	Platanus racemosa
(U.S. Bicentennial Freedom Tree)	
Irvine Terrace Park	Pinus pinia
(Calif. Bicentennial)	
Irvine Terrace Park	Liquidambar styraciflua
(Dana Harmon)	
Irvine Terrace Park	Pinus nigra
(Sister City of Okazaki)	
L Street Park	Cassia leptophylla
(Tim Van Ostenbridge)	
Las Arenas Park (Ed Healy)	Melaleuca linarifolia
M Street median	Pinus pinea
(Walter Knott)	
Mariners Park	Bauhinia variegata
(Sierra Beth)	
Mariners Park	Cedrus deodara
(Dr. Anthony & Madeline DeCarbo)	
Mariners Park	Pinus halepensis
(Isy Pease)	
Mariners Park	Pinus eldarica
(Christopher & Marisha Thomposn)	
(Meghan & Camielle Thompson)	
Mariners Park	Pinus radiata
(Frank Tallman)	
Mariners Park	Stenocarpus sinuatus
(N. Beach Sunrise Rotary Club)	
Mariners Park	Magnolia 'Little
Gem'	
(Graci Lee Henry)	
Mariners Park	Bauhinia variegata
(Susana Lee Niederhaus)	

No. Mariners Park (Marcie Schrauder)	<i>Pinus radiata</i>
Newport Pier/ 24 th Street Bike Path (Marie "Maxine" Louchis)	<i>Chamaerops humilis</i>
Old School Park (Mary Jo Tyler)	<i>Bauhinia variegata</i>
Old School Park (Jean & Coalson Morris)	<i>Cassia leptophylla</i>
Peninsula Park (Gray Lunde Tree)	<i>Chamaerops humilis</i>
Peninsula Park (Don Perdue)	<i>Ravenea rivularis</i>
San Miguel Park (Jon Walters)	<i>Schinus molle</i>
Spyglass Hill Park (Dennis George Brice) (Edith Mary Brice)	<i>Acacia baileyana</i>
Veterans Park (Rosemary Rae Hill Hansen)	<i>Lagenstroemia indica fauriei</i>
WCH & Superior Ave City Parking Lot (Louise Greeley)	<i>Cassia leptophylla</i>
West Newport Park (Russell Marc Beaumont) (Jeff Steven Reinker)	<i>Erythrina caffra</i>
West Newport Park (Brownie Girl Scout Troop 2072)	<i>Spathodea campanulata</i>
Various locations: Castaways Park and Cliff Drive Park slopes (Dr. Jan David Vandersloot & Family)	<i>Quercus agrifolia</i>

NEIGHBORHOOD
TREES

Along Avon Avenue	Eucalyptus globulus (8)
Buena Vista and Lindo Avenue	Erythrina caffra (1)
Candlestick Lane (Baycrest)	Eucalyptus citriodora (17)
Clay Street (Irvine Ave to St. Andrews Road)	Ficus microcarpa 'Nitida' (21)
Cliff Drive (north side, west of Dover Drive)	Agathus robusta (4)
Cliff Drive Park (Scout House)	Ficus benamina (1)
Commodore Road	Eucalyptus citriodora (2)
Corona Del Mar State Beach	Washingtonia robusta (74)
601 Dover Drive	Eucalyptus ficifolia (1)
Dover Drive (Mariners to Irvine)	Eucalyptus globulus
Eastbluff Park	Ficus macrophylla (6)
Glenwood Lane	Eucalyptus citriodora (10)
Goldenrod Avenue (Ocean Blvd to Fifth Ave)	Washingtonia robusta (144)
Heliotrope Avenue (Corona del Mar)	Pinus radiata (2)

Irvine Avenue (17th St. to Dover)	Phoenix dactylifera (Date palm) (30)
Irvine Avenue (17th St. to Dover)	Spathodea campanulata(African tulip) (39)
128 Kings Road	Roystonea regia (1)
128 Kings Road	Pseudobombax ellipticum (1)
L Street Park	Quercus suber (39)
Leeward Lane	Fraxinus uhdei "Tomlinson" (39)
M Street Park	Pinus pinea (1)
Margaret Drive Median	Erythrina caffra (1)
Marguerite Avenue (Ocean Blvd to Fifth Ave)	Phoenix canariensis (79)
Mariners Drive	Jacaranda mimosifolia (52)
Newport Center Drive	Washingtonia robusta (363)
Poppy Avenue (Corona del Mar)	Eucalyptus rudis (40)
Rhine Wharf Park	Archontophoenix cunninghamiana (12)
Along Riverside Avenue (adjacent to.Cliff Drive Park)	Schinus terebinthefolius (11)
725 St.James Road	Eucalyptus ficifolia (1)
Sandalwood Lane	Eucalyptus citriodora (3)
Santa Ana Avenue	Eucalyptus robusta (38)
Seaview Avenue (Corona del Mar)	Pinus radiata (5)
Shorecliffs Entrance	Erythrina caffra (40)
Starlight Circle	Eucalyptus citriodora (10)
Via Lido Bridge	Eucalyptus globulus (14)
Vista Del Oro Median	Erythrina caffra (6)
Waterfront Drive (Avocado Ave to Acacia Ave)	Schinus molle (16)
West Newport Park	Metrosideros excelsus(55)

Exhibit F – KCAL News Article

LOCAL NEWS

Newport Beach residents fight back against city's plan to remove eucalyptus tree home to Great blue herons



By Michele Gile
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Newport Beach residents are calling for the city's plans to remove a tree which a large number of nesting Great blue herons call home.

The tree in question, an extremely old eucalyptus tree, sits behind the Newport Beach Public Library on the Balboa Peninsula. For years, it's acted as a popular spot for the herons during mating season.

"The males are bringing in the twigs to remodel and rebuild their home for their lady, you know, to attract their

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Exhibit 4

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mate," said Debbie McGuire, Director of the Wetlands and Wildlife Care Center. "It is mating season, so that's why they're so active right now."

Though they've been a stable in the area year in and year out during winter, a number of planned changes have put their temporary refuge at risk.

"I hope not," said one resident. "It's a landmark."

"You can't just say, 'Good luck, birds,'" said Kathy Frazier, another resident who lives about a block away from the tree's location "No. The city needs to have a plan. They need to have a bigger plan than they have of just chopping the tree down and hoping the birds can hop around and find another place."

Frazier says that the city isn't following up on their promise to let locals voice their concerns with the planned project.

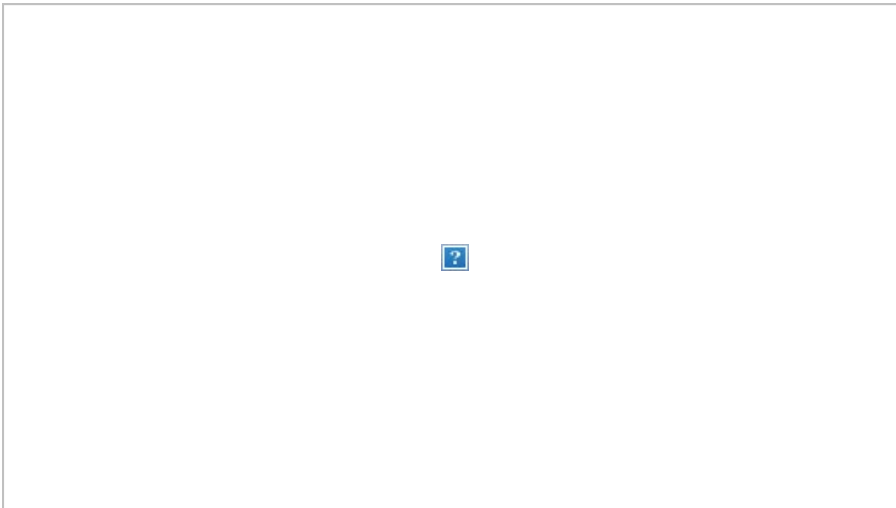
City officials say that the tree is slated for removal, as they redesign the library and expand the nearby fire station next door. The plan still doesn't have a starting date, but they say at the earliest it would be sometime next year.

They also say that the tree's insides are rotting, and that it would have to come down in the near future anyway.

"The tree would only be removed after the birding/nesting season," said a statement from Newport Beach City manager John Pope. "The remaining tree is being monitored for rot. Based on the current level of rot and expected progression, the tree only has an estimated 4-5 years before it would need to be removed for safety reasons."

They also say that at least eight new trees would be planted as part of the project's completion, making up for the loss of the tree. However, wildlife experts are calling for the construction of platforms that the herons can nest on instead.

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