

## **Appendix A**

### **Notice of Preparation/ NOP Comments**

# Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P. O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613  
For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

**SCH # 2006051082**

**Project Title:** Aerie (PA2005-196)

Lead Agency: City of Newport Beach Contact Person: James Campbell, Senior Planner  
Mailing Address: 3300 Newport Boulevard Phone: (949) 644-3210  
City: Newport Beach Zip: 926585 County: Orange

**Project Location:** County: Orange City/Nearest Community: Newport Beach  
Cross Streets: Ocean Boulevard/Carnation Avenue Zip Code: 92658  
Lat. / Long.: 33° 37' 00" N / 117° 53' 51" W Total Acres: 1.4  
Assessor's Parcel No.: \_\_\_\_\_ Section: \_\_\_\_\_ Twp.: \_\_\_\_\_ Range: \_\_\_\_\_ Base: \_\_\_\_\_  
Within 2 Miles: State Hwy #: SR-1 Waterways: Pacific Ocean  
Airports: \_\_\_\_\_ Railways: \_\_\_\_\_ Schools: \_\_\_\_\_

### Document Type:

CEQA:  NOP  Draft EIR NEPA:  NOI Other:  Joint Document  
 Early Cons  Supplement/Subsequent EIR  EA  Final Document  
 Neg Dec (Prior SCH No.) 2006051082  Draft EIS  Other \_\_\_\_\_  
 Mit Neg Dec Other \_\_\_\_\_  FONSI

### Local Action Type:

General Plan Update  Specific Plan  Rezone  Annexation  
 General Plan Amendment  Master Plan  Prezone  Redevelopment  
 General Plan Element  Planned Unit Development  Use Permit  Coastal Permit  
 Community Plan  Site Plan  Land Division (Subdivision, etc.)  Other Mod. Permit

### Development Type:

Residential: Units 8 Acres 1.4  Water Facilities: Type \_\_\_\_\_ MGD \_\_\_\_\_  
 Office: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  Transportation: Type \_\_\_\_\_  
 Commercial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  Mining: Mineral \_\_\_\_\_  
 Industrial: Sq.ft. \_\_\_\_\_ Acres \_\_\_\_\_ Employees \_\_\_\_\_  Power: Type \_\_\_\_\_ MW \_\_\_\_\_  
 Educational \_\_\_\_\_  Waste Treatment: Type \_\_\_\_\_ MGD \_\_\_\_\_  
 Recreational \_\_\_\_\_  Hazardous Waste: Type \_\_\_\_\_  
 Other: Dock replacement/reconfiguration

### Project Issues Discussed in Document:

Aesthetic/Visual  Fiscal  Recreation/Parks  Vegetation  
 Agricultural Land  Flood Plain/Flooding  Schools/Universities  Water Quality  
 Air Quality  Forest Land/Fire Hazard  Septic Systems  Water Supply/Groundwater  
 Archeological/Historical  Geologic/Seismic  Sewer Capacity  Wetland/Riparian  
 Biological Resources  Minerals  Soil Erosion/Compaction/Grading  Wildlife  
 Coastal Zone  Noise  Solid Waste  Growth Inducing  
 Drainage/Absorption  Population/Housing Balance  Toxic/Hazardous  Land Use  
 Economic/Jobs  Public Services/Facilities  Traffic/Circulation  Cumulative Effects  
 Other \_\_\_\_\_

### Present Land Use/Zoning/General Plan Designation:

Existing Land Use: Residential (15 dwelling units); Existing Zoning: "R-2" (Two Family Residential) and "MFR (2178)" (Multiple-family Residential, 2,178 sq. ft. land/unit); General Plan: "RT (Two-Unit Residential)" and RM (Multiple Unit Residential - 20 du/ac)"

### Project Description: (please use a separate page if necessary)

The project applicant, Advanced Real Estate Services, Inc., is proposing to develop the 1.4-acre site with an 8-unit condominium development. The total development area will encompass 62,709 square feet and includes living area, storage areas, parking, and circulation and mechanical areas. In addition, the project applicant is also proposing the replacement and reconfiguration of the existing gangway platform, pier walkway and dock facilities on the site. Eight (8) replacement slips and a guest side-tie dock are proposed. Project implementation will necessitate the approval of a General Plan Amendment (GP2005-006), Coastal Land Use Plan Amendment (LC2005-002), Zone Change (CA2005-009), Tract Map (NT2005-004/TT16882), Modification Permit (MD2005-087), and Coastal Residential Development Permit (CR2005-002).

Note: The state Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

January 2008

## Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".  
If you have already sent your document to the agency please denote that with an "S".

<input type="checkbox"/> Air Resources Board	<input type="checkbox"/> Office of Emergency Services
<input type="checkbox"/> Boating & Waterways, Department of	<input checked="" type="checkbox"/> Office of Historic Preservation
<input type="checkbox"/> California Highway Patrol	<input type="checkbox"/> Office of Public School Construction
<input type="checkbox"/> CalFire	<input type="checkbox"/> Parks & Recreation
<input checked="" type="checkbox"/> Caltrans District # 12	<input type="checkbox"/> Pesticide Regulation, Department of
<input type="checkbox"/> Caltrans Division of Aeronautics	<input type="checkbox"/> Public Utilities Commission
<input type="checkbox"/> Caltrans Planning (Headquarters)	<input checked="" type="checkbox"/> Regional WQCB # _____
<input type="checkbox"/> Central Valley Flood Protection Board	<input type="checkbox"/> Resources Agency
<input type="checkbox"/> Coachella Valley Mountains Conservancy	<input type="checkbox"/> S.F. Bay Conservation & Development Commission
<input checked="" type="checkbox"/> Coastal Commission	<input type="checkbox"/> San Gabriel & Lower L.A. Rivers and Mtns Conservancy
<input type="checkbox"/> Colorado River Board	<input type="checkbox"/> San Joaquin River Conservancy
<input type="checkbox"/> Conservation, Department of	<input type="checkbox"/> Santa Monica Mountains Conservancy
<input type="checkbox"/> Corrections, Department of	<input type="checkbox"/> State Lands Commission
<input type="checkbox"/> Delta Protection Commission	<input type="checkbox"/> SWRCB: Clean Water Grants
<input type="checkbox"/> Education, Department of	<input type="checkbox"/> SWRCB: Water Quality
<input type="checkbox"/> Energy Commission	<input type="checkbox"/> SWRCB: Water Rights
<input checked="" type="checkbox"/> Fish & Game Region # _____	<input type="checkbox"/> Tahoe Regional Planning Agency
<input type="checkbox"/> Food & Agriculture, Department of	<input checked="" type="checkbox"/> Toxic Substances Control, Department of
<input type="checkbox"/> General Services, Department of	<input type="checkbox"/> Water Resources, Department of
<input type="checkbox"/> Health Services, Department of	<input type="checkbox"/> Other _____
<input type="checkbox"/> Housing & Community Development	<input type="checkbox"/> Other _____
<input type="checkbox"/> Integrated Waste Management Board	
<input checked="" type="checkbox"/> Native American Heritage Commission	

-----

### Local Public Review Period (to be filled in by lead agency)

Starting Date September 10, 2008

Ending Date October 9, 2008

-----

### Lead Agency (Complete if applicable):

Consulting Firm: Keeton Kreitzer Consulting

Applicant: Advanced Real Estate Services, Inc.

Address: 17291 Irvine Boulevard, Suite 305

Address: 23792 Rockfield Boulevard, Suite 100

City/State/Zip: Tustin, CA 92780

City/State/Zip: Lake Forest, CA 92630

Contact: Keeton K. Kreitzer, Principal

Phone: (949) 595-5900

Phone: (714) 665-8509

-----

Signature of Lead Agency Representative: 

Date: September 8, 2008

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.



## CITY OF NEWPORT BEACH

3300 Newport Boulevard - P.O. Box 1768

Newport Beach, CA 92658-8915

### NOTICE OF PREPARATION CITY OF NEWPORT BEACH, CALIFORNIA

**Project:** Aerie (PA2005-196)

**Project Location:** 201 – 207 Carnation Avenue (West side of Carnation Avenue at the intersection of Ocean Boulevard) & 101 Bayside Place

**Lead Agency:** City of Newport Beach

Pursuant to Section 15082(a) of the California Environmental Quality Act (CEQA) Guidelines, the City of Newport Beach (City) will be the lead agency and will prepare an environmental impact report (EIR) for the proposed project described below. The City needs to know your agency's views as to the scope and content of the environmental information related to your agency's statutory authority with respect to the proposed project. Your agency will need to use the EIR prepared by our agency when considering any applicable permits for the project.

The City of Newport Beach has determined that the proposed project will require the preparation of an EIR and, as authorized by Section 15060(d) of the State CEQA Guidelines, an initial study has not been prepared. Potentially significant environmental effects that will be evaluated in the EIR include:

- |                           |                                   |
|---------------------------|-----------------------------------|
| ▪ Aesthetics              | ▪ Air Quality                     |
| ▪ Biological Resources    | ▪ Cultural Resources              |
| ▪ Geology and Soils       | ▪ Hazards and Hazardous Materials |
| ▪ Hydrology/Water Quality | ▪ Land Use and Planning           |
| ▪ Noise                   | ▪ Transportation/Traffic          |

Unless specific comments are received during the NOP public comment period that indicate a potential for the project to result in significant impacts, the following issues will not be addressed in the EIR:

- |                          |                                  |
|--------------------------|----------------------------------|
| ▪ Agricultural Resources | ▪ Mineral Resources              |
| ▪ Recreation             | ▪ Public Services and Facilities |
| ▪ Utilities              | ▪ Population and Housing         |

Pursuant to Section 15103 of the CEQA Guidelines, your response must be sent at the earliest date but received by our agency no later than thirty (30) days after receipt of this notice. Should you have any questions regarding the project or this NOP, please call Mr. James Campbell, Senior Planner, at (949) 644-3210. Please mail your written response including any comments you may have on this project to:

James Campbell, Senior Planner  
City of Newport Beach  
Planning Department  
3300 Newport Boulevard  
P. O. Box 1768  
Newport Beach, CA 92658-8915

**Applicant:** Advanced Real Estate Services, Inc.

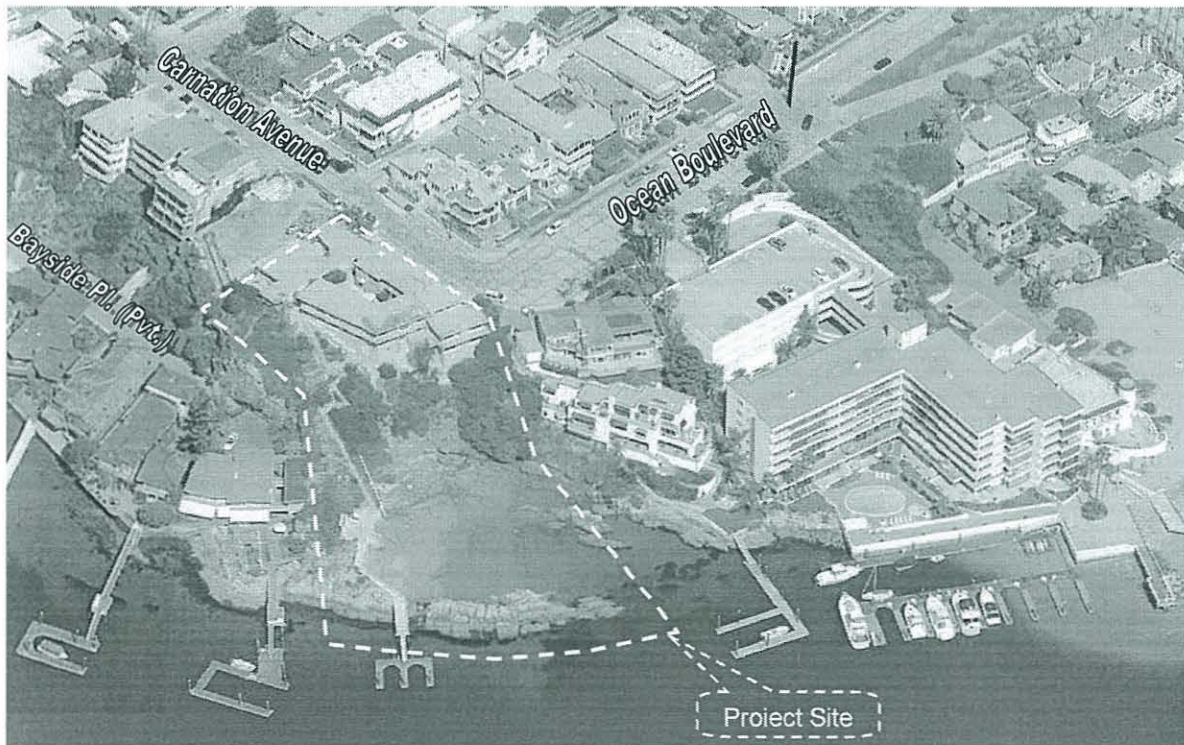
**Description:** Advanced Real Estate Services, Inc., is the applicant for the Aerie residential project (PA 2005-196) (Project). The Project consists of (a) the demolition of the existing residential structures on the 1.4-acre site (the Site); (b) the development of eight (8) residential condominium units; and (c) the replacement, reconfiguration, and expansion of the existing gangway platform, pier walkway, and dock facilities on the Site.

#### Existing Conditions

The Site is currently occupied by a 14-unit apartment building, one single-family residence, as well as a deteriorating gangway platform, pier walkway, and dock facilities. In addition, an on-grade staircase (built prior to 1961) presently exists on the bluff face that connects the apartment building atop the bluff with an existing, irregularly shaped, concrete pad located at the base of the bluff. The existing apartment structure has a total of three levels, including two split levels that are visible above the existing grade from the street. All three levels of the existing building are visible from Newport Bay. Parking for the existing apartments consists of open carports at grade along Carnation Avenue.

The single-family home on the Site and two of the dwelling units within existing apartment building are occupied. The Site is a steeply sloping coastal bluff and cliff, the west-facing portion of which is subject to marine erosion. The following aerial photograph shows the Site's setting.

#### **Aerial Photograph**



The westerly portion of the Site is partly submerged and rocky, and there is a small sandy cove at the base of the landform. The westerly extent of the existing foundation of the existing apartment building is located on the face of the coastal bluff. An on-grade staircase built prior to 1961 presently exists on the bluff face that connects the apartment building with an existing, irregularly shaped, concrete pad (approximately 720 square feet) and private floating dock bayward of the rocks. Vegetation and exposed rock formations comprise the bluff face below the existing buildings.

West of the Site is the main entrance to Newport Bay from the Pacific Ocean and the eastern end of Balboa Peninsula. North of the Site are single family and multi-family residences on Carnation Avenue and Bayside Place. The northern side of Carnation Avenue is a developed coastal bluff which is not subject to marine erosion. The homes on Carnation Avenue overlook Bayside Place and the homes located on Bayside Place. The homes below the Site along Bayside Place were primarily constructed on previously filled submerged lands. South and east of the Site are a mix of single family and multi-family residential buildings and the Kerkchoff Marine Laboratory, all developed on the coastal bluff face between Ocean Boulevard and Newport Bay.

Proposed Residential Structures

The Project will consist of a total of six levels, including: (a) four above grade floors consisting primarily of living space, but with some parking areas on the first and second floors; and (b) two subterranean common recreation areas, storage and parking levels (the "basement" and, at the lowest level, the "sub-basement").

Three residential levels will be visible from Carnation Avenue above the existing street grade. Four residential levels will be visible when viewed from Newport Bay. In total, the Project will encompass 61,709 square feet and includes living areas, storage areas, parking, and circulation and mechanical areas as reflected in Table 1.

**Table 1**  
**Development Area Breakdown**  
**Aerie (PA 2005-196)**

<b>Use</b>	<b>Area (Square Feet)</b>
Living	29,426
<b>Storage Areas</b>	5,943
Parking	13,234
Common Area, Circulation and Mechanical	13,106
<b>Total</b>	<b>61,709</b>
SOURCE: Brion Jeannette Architecture	

The City Council has established a predominant line of existing bluff face development for the Site (PLOED) at elevation 50.7 feet NAVD 88. New development on the bluff face is proposed to be more than two feet higher than the PLOED at elevation 52.83 feet NAVD 88, except for an emergency exit at elevation 40.5 NAVD 88 that will be screened from public view. The basement and sub-basement levels are subterranean and will not be visible from either the street or the bay. Outdoor patios, decks, spas, and firepits are proposed at each above grade level. The Project will encroach into the front and side setbacks; however, the majority of the encroachments are subterranean. Approximately 25,240 cubic yards of earth will be excavated and removed from the Site. The eight condominium units are further described in Table 2.

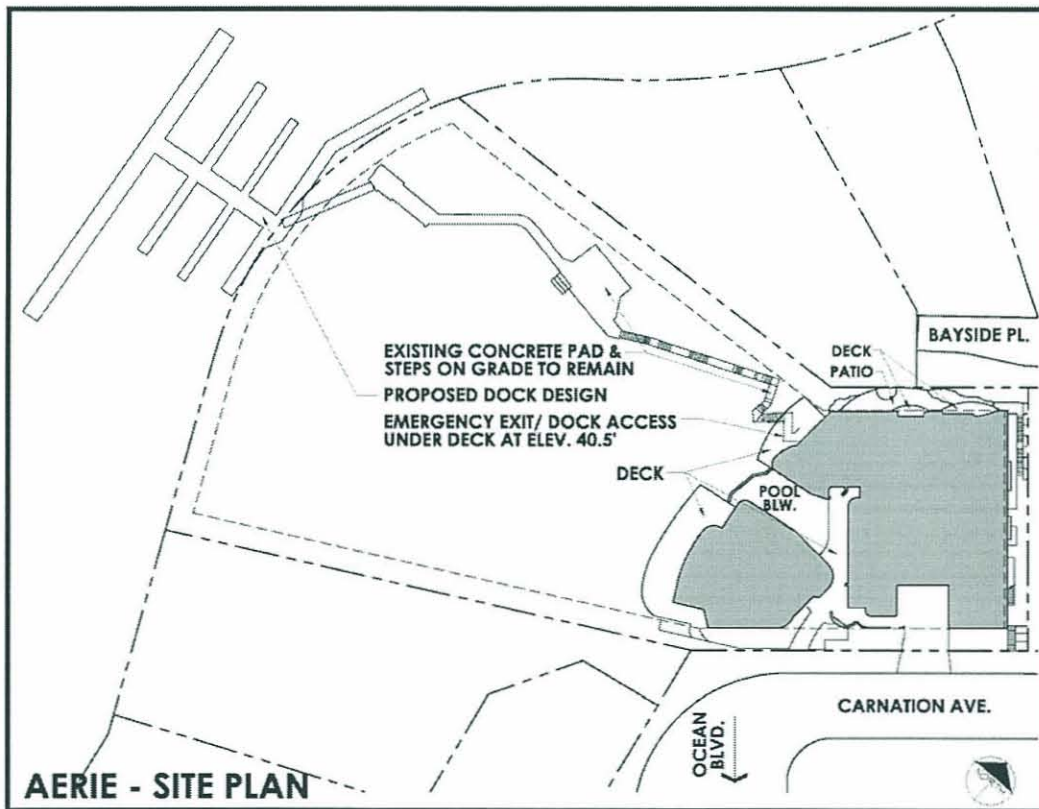
Table 2

Unit Statistical Analysis

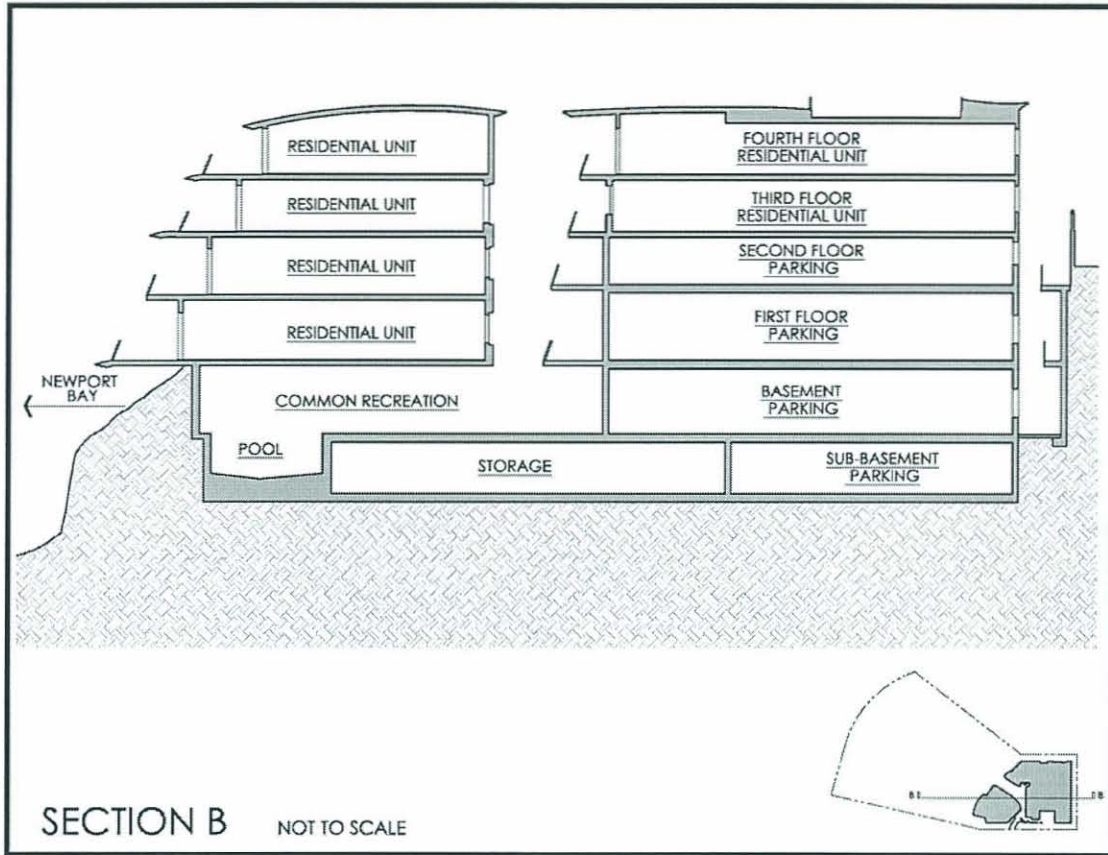
Unit No.	No. of Levels	Living Area (Sq. Ft.)	Garage (Sq. Ft.)	Storage (Sq. Ft.)	Total (Sq. Ft.)
1	1	3,716	416	471	4,603
2	1	3,204	410	705	4,319
3	1	2,662	397	648	3,707
4	1	2,916	418	709	4,043
5	2	4,990	483	1,143	6,616
6	2	4,130	436	889	5,455
7	1	3,745	399	674	4,818
8	1	4,063	552	704	5,319
<b>Totals</b>		<b>29,426</b>	<b>3,511</b>	<b>5,943</b>	<b>38,880</b>

SOURCE: Brion Jeannette Architecture

Conceptual Site Plan



### Cross Section B



As indicated in Table 2, each condominium unit will have a private storage room located in the subterranean levels. Common amenities include a fitness facility, lounge, patio, locker room, exercise room, and a pool located on the basement level that will be partially open to the sky allowing light and air to circulate to the pool area. At least two parking spaces are provided and designated for each unit, with an additional eight (8) guest, one (1) service, and two (2) golf cart parking spaces spread throughout the sub-basement, the basement, and the First and Second Floors. The Second Floor is approximately four (4) feet below the grade of Carnation Avenue and will house residential units, one (1) two-car garage, and five (5) guest parking spaces, as well as bicycle and motorcycle parking accommodations. Below street grade parking is hidden from public view and is accessed from Carnation Avenue utilizing two automobile elevators. The existing upper portion of the on-grade stairs that currently provide private access from the apartment building to the water and existing docks will be removed. The existing on-grade stairs (built prior to 1961), which are seaward of the proposed residential structure, will be connected to the building by an on-grade stair at the Basement Level.

#### *The Docks*

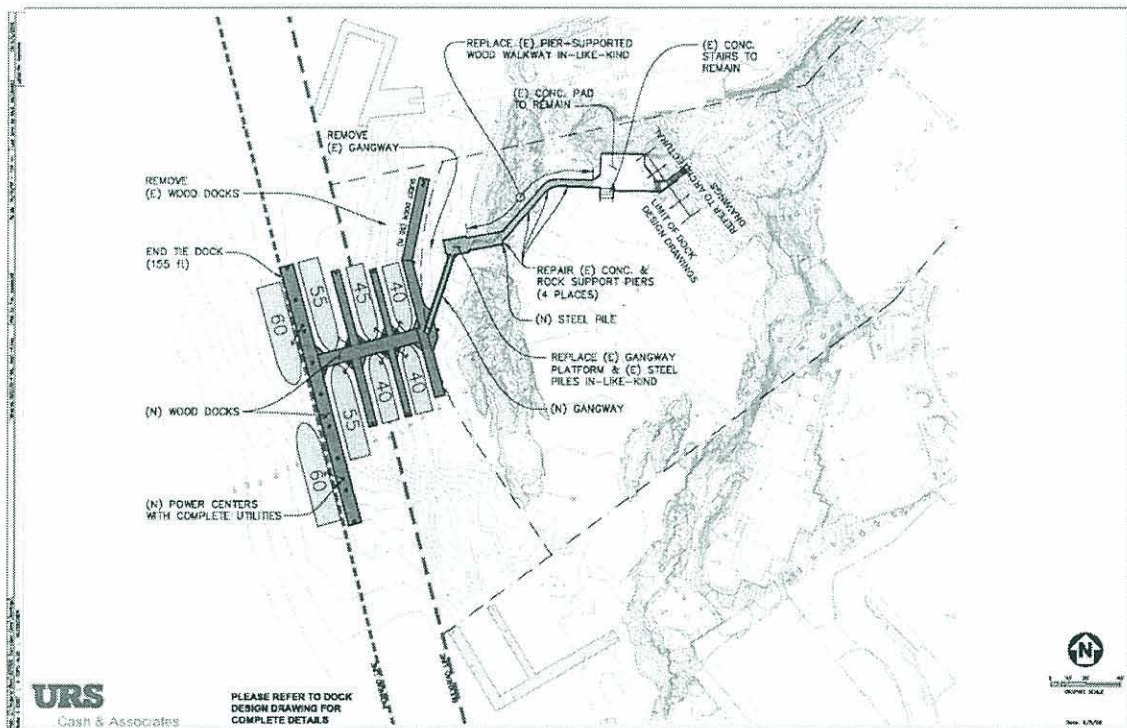
The structural elements of the existing gangway platform, pier walkway, and floating docks (timber frame, concrete pontoons, and timber deck) are in very poor condition. The City has required the applicant to remove or rebuild the docks due to their deteriorated and unsafe conditions. The existing docks can accommodate four (4) small boats in the approximately 25-foot class. Eight (8) replacement slips and one (1) guest side-tie dock are proposed. The new dock layout will accommodate boats in the 40 to 60-foot class and the proposed layout is depicted on the Dock Replacement Plan, below.



The new docks will consist of timber docks supported by rotationally molded plastic pontoons, which require less draft (bottom clearance) than concrete floats, allowing the dock system to be located as close to an existing rock outcropping as possible. The six (6) steel dock guidepiles that support the existing docks will be removed and replaced with 19 new guide piles supporting the new dock system. Of these 19 piles, nine (9) will be large diameter piles (approximately two-foot diameter). All guidepiles will be pre-stressed concrete piles set in pre-drilled, augered holes. The existing 20-foot long gangway will be replaced by a 60-foot long gangway.

As illustrated in the Dock Replacement Plan below, the pile-supported pier walkway between the existing gangway platform and the existing concrete pad, will be repaired/replaced with a structure in-like-kind (timber-framing system, a 2x timber deck, and timber railings all around). The existing concrete piles supporting the walkway will be repaired in the form of concrete repairs. The gangway platform replacement will include the four (4) steel piles, timber framing with metal connectors, and a 2x timber deck with railings all around. The existing concrete pad, concrete steps, and railing will be repaired and patched as necessary.

### Dock Replacement Plan



## City of Newport Beach Discretionary Approvals

The following discretionary approvals are requested or required by the City in order to implement the project:

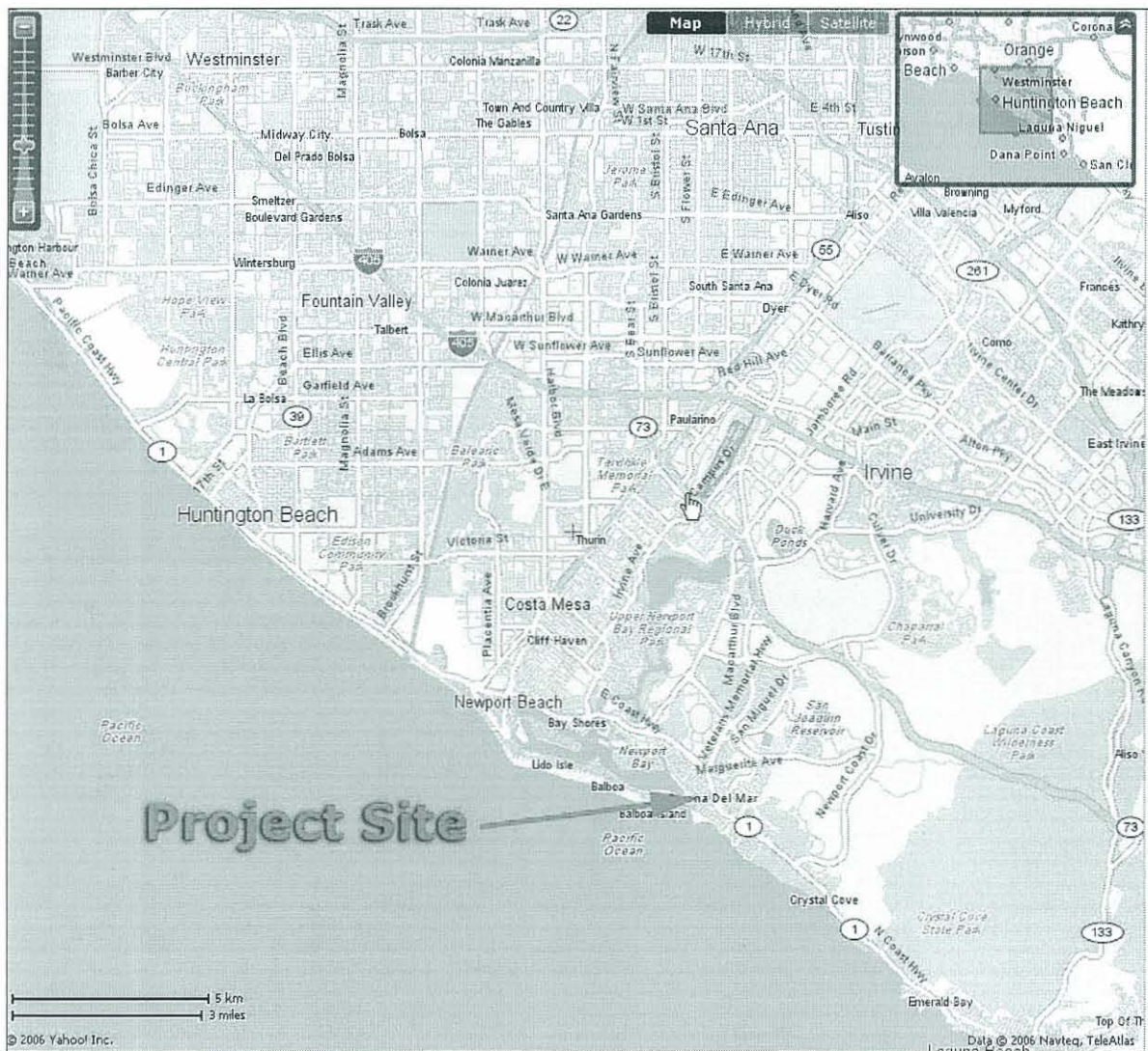
General Plan Amendment (GP2005-006)  
Coastal Land Use Plan Amendment (LC2005-002)  
Zone Change (CA2005-009)  
Tract Map (NT2005-004/TT16882)  
Modification Permit (MD2005-087)  
Coastal Residential Development Permit (CR2005-002)

### Other Public Agencies Whose Approval is Required

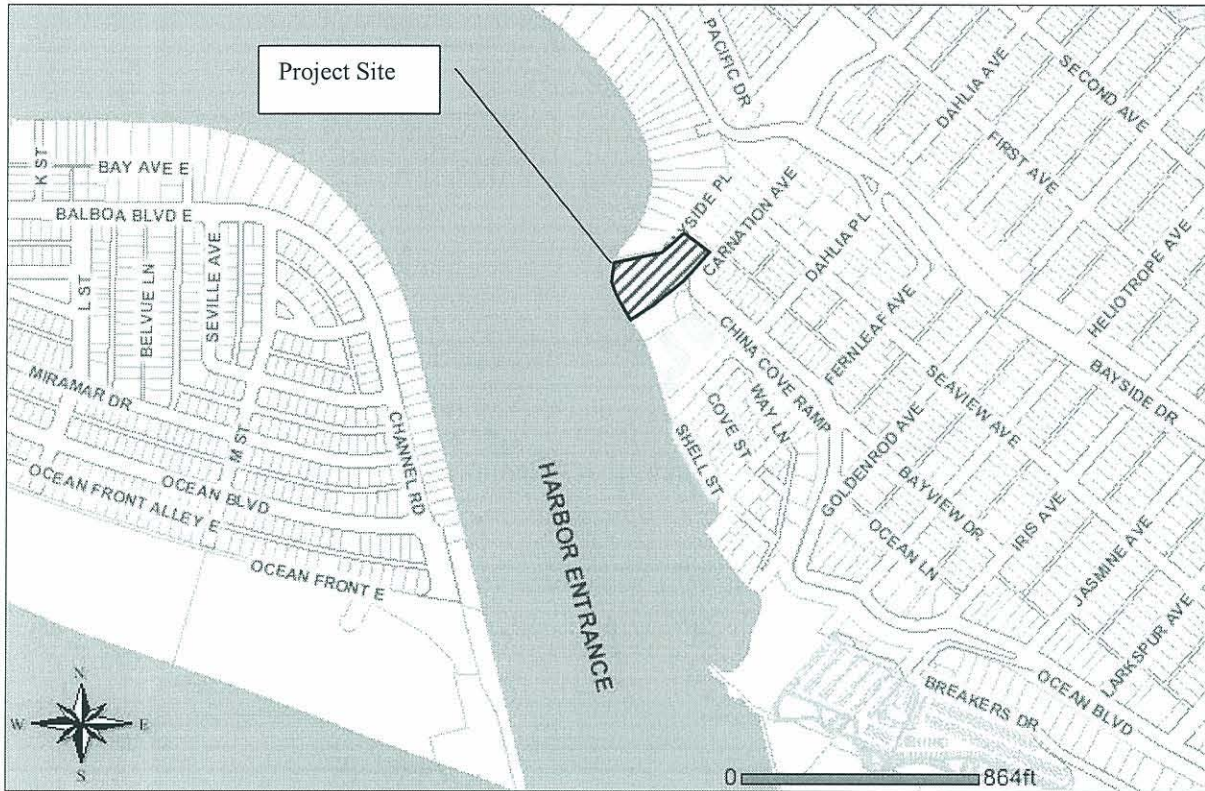
The following discretionary approvals are required by other agencies.

Coastal Land Use Program Amendment – California Coastal Commission  
Coastal Development Permit – California Coastal Commission

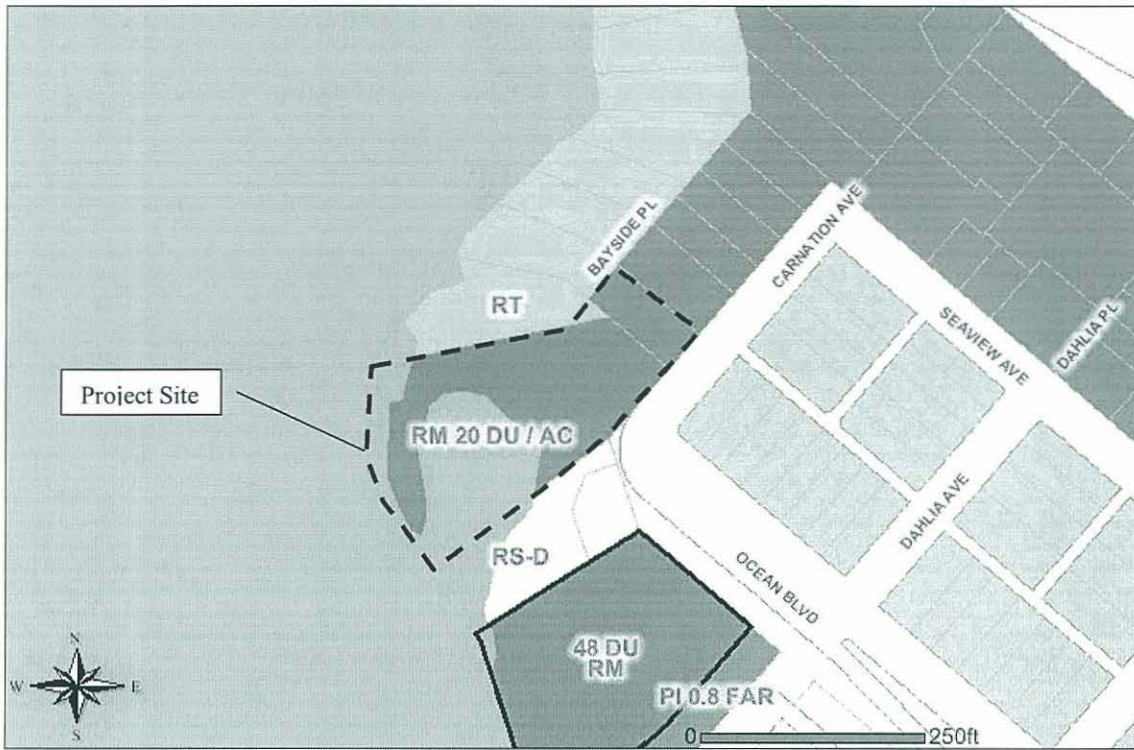
### Vicinity Map



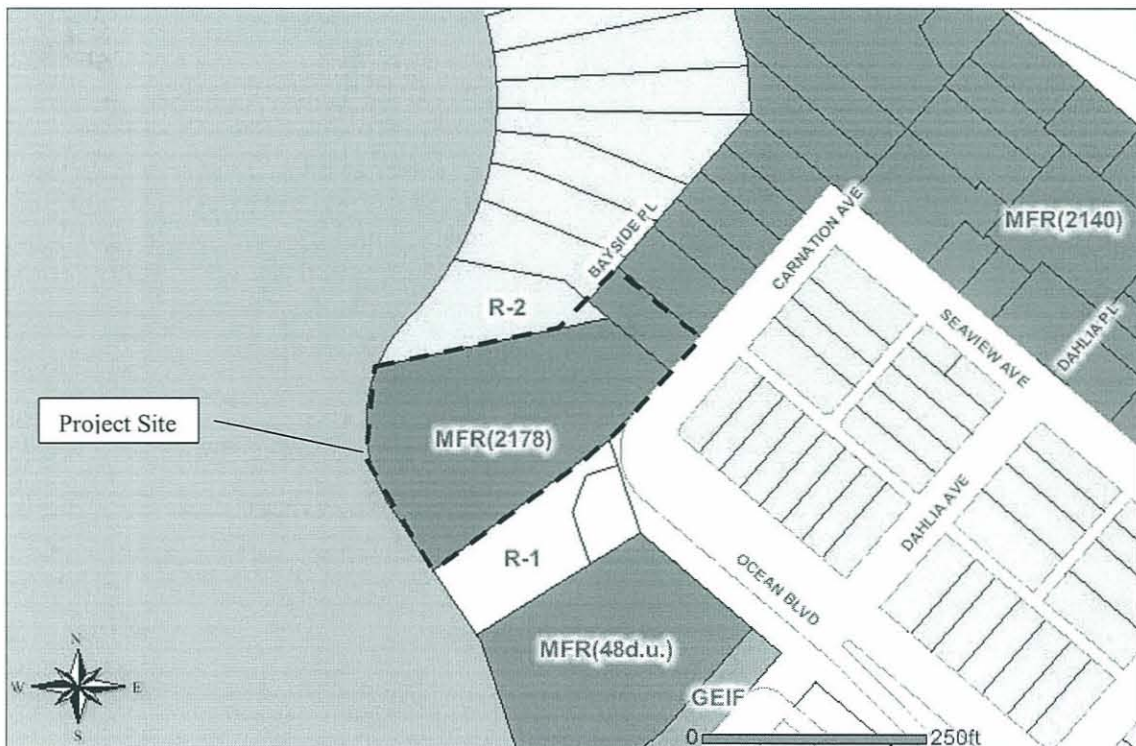
Location Map



**Existing General Plan Land Use Designations**

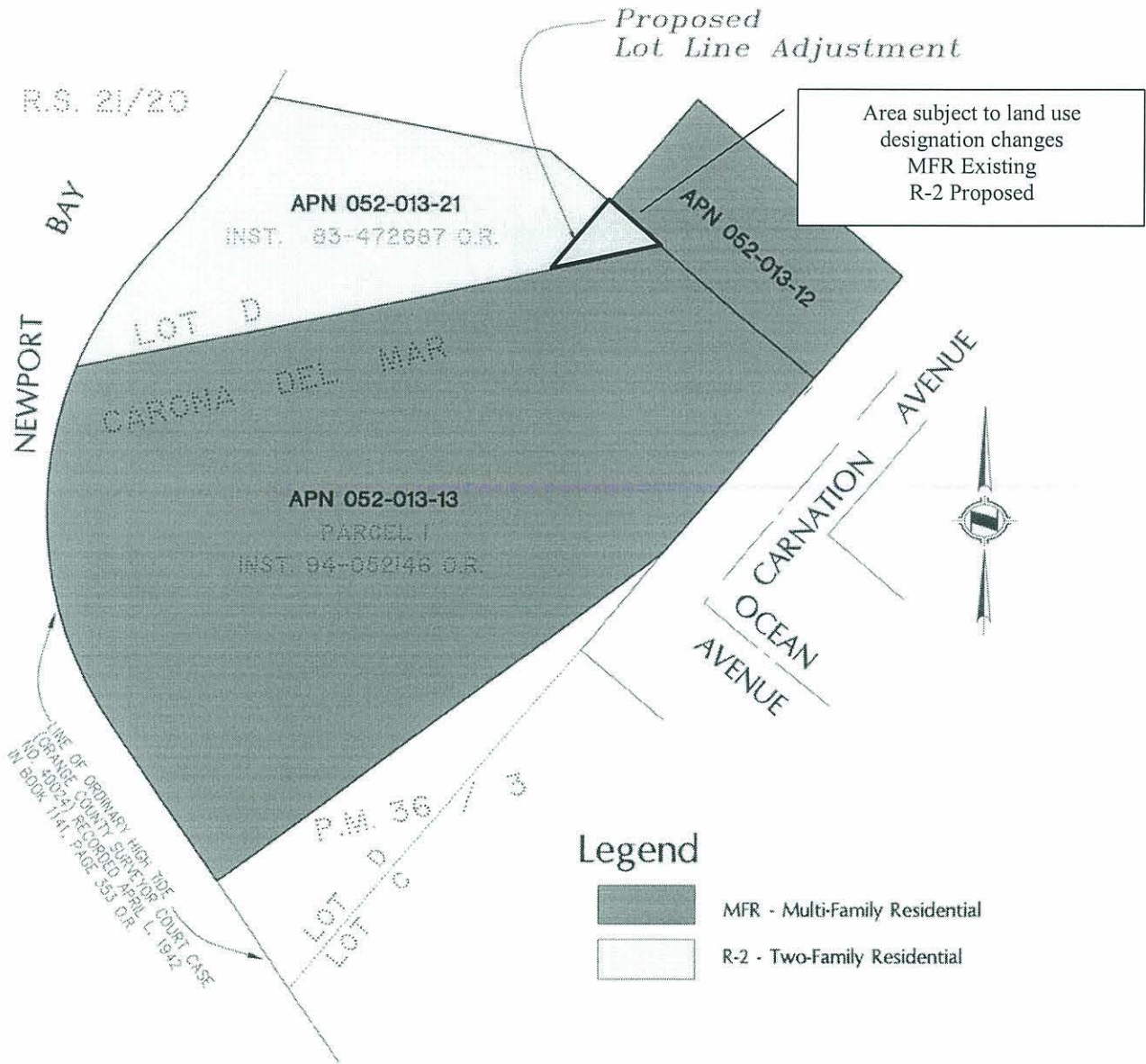


**Existing Zoning Designations**



# Proposed Zoning

## CITY OF NEWPORT BEACH



## DEPARTMENT OF TRANSPORTATION

District 12  
3337 Michelson Drive, Suite 380  
Irvine, CA 92612-8894  
Tel: (949) 724-2267  
Fax: (949) 724-2592

RECEIVED BY  
PLANNING DEPARTMENT

SEP 23 2008



*Flex your power!  
Be energy efficient!*

CITY OF NEWPORT BEACH

September 18, 2008

Mr. James Cambell  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, California 92663

File: IGR/CEQA  
SCH#: 2007021054  
Log #: 1833E  
PCH

**Subject: Aerie (PA2005-196)**

Dear Mr. Cambell,

Thank you for the opportunity to review and comment on the **Notice of Preparation for the Aerie (PA2005-196) draft Environmental Impact Report**. The project applicant is proposing to develop the 1.4 acre site with an 8-unit condominium complex. The total development area will encompass 62,709 square feet and includes reconfiguration of pier and dock facilities. The nearest State route to the project site is Pacific Coast Highway (PCH).

The California Department of Transportation (Department), District 12 is a commenting agency on this project and has no comment at this time. However, in the event of any activity within the Department's' right-of-way, an encroachment permit will be required.

Please continue to keep us informed of this project and any future developments, which could potentially impact State transportation facilities. If you have any questions or need to contact us, please do not hesitate to call Damon Davis at (949) 440-3487.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ryan Chamberlain".

Ryan Chamberlain, Branch Chief  
Local Development/Intergovernmental Review

C: Terry Roberts, Office of Planning and Research



ARNOLD SCHWARZENEGGER  
GOVERNOR

STATE OF CALIFORNIA  
GOVERNOR'S OFFICE of PLANNING AND RESEARCH  
STATE CLEARINGHOUSE AND PLANNING UNIT



CYNTHIA BRYANT  
DIRECTOR

Notice of Preparation

September 10, 2008

RECEIVED BY  
PLANNING DEPARTMENT

SEP 17 2008

To: Reviewing Agencies

Re: Aerie (PA2005-196)  
SCH# 2007021054

CITY OF NEWPORT BEACH

Attached for your review and comment is the Notice of Preparation (NOP) for the Aerie (PA2005-196) draft Environmental Impact Report (EIR).

Responsible agencies must transmit their comments on the scope and content of the NOP, focusing on specific information related to their own statutory responsibility, within 30 days of receipt of the NOP from the Lead Agency. This is a courtesy notice provided by the State Clearinghouse with a reminder for you to comment in a timely manner. We encourage other agencies to also respond to this notice and express their concerns early in the environmental review process.

Please direct your comments to:

James Campbell  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92663

with a copy to the State Clearinghouse in the Office of Planning and Research. Please refer to the SCH number noted above in all correspondence concerning this project.

If you have any questions about the environmental document review process, please call the State Clearinghouse at (916) 445-0613.

Sincerely,

Scott Morgan  
Project Analyst, State Clearinghouse

Attachments  
cc: Lead Agency

**Document Details Report  
State Clearinghouse Data Base**

**SCH#** 2007021054  
**Project Title** Aerie (PA2005-196)  
**Lead Agency** Newport Beach, City of

---

**Type** **NOP** Notice of Preparation

**Description** The project applicant, Advanced Real Estate Services, Inc., is proposing to develop the 1.4 acre site with an 8-unit condominium development. The total development area will encompass 62,709 square feet and includes living area, storage areas, parking, and circulation and mechanical areas. In addition, the project applicant is also proposing the replacement and reconfiguration of the existing gangway platform, pier walkway and dock facilities on the site. Eight (8) replacement slips and a guest side-tie dock are proposed. Project implementation will necessitate the approval of a General Plan Amendment (GP2005-006), Coastal Land Use Plan Amendment (LC2005-002), Zone Change (CA2005-009), Tract Map (NT2005-004/TT16882), Modification Permit (MD2005-087), and Coastal Residential Development Permit (CR2005-002).

---

**Lead Agency Contact**

**Name** James Campbell  
**Agency** City of Newport Beach  
**Phone** (949) 644-3210 **Fax**  
**email**  
**Address** 3300 Newport Boulevard  
**City** Newport Beach **State** CA **Zip** 92663

---

**Project Location**

**County** Orange  
**City** Newport Beach  
**Region**  
**Cross Streets** Ocean Boulevard and Carnation Avenue  
**Lat / Long** 33° 37' 00" N / 117° 53' 51" W  
**Parcel No.**  
**Township** **Range** **Section** **Base**

---

**Proximity to:**

**Highways** 1  
**Airports**  
**Railways**  
**Waterways** Pacific Ocean  
**Schools**  
**Land Use** Existing Land Use: Residential (15 dwelling units)  
Existing Zoning: R-2 (Two-family Residential) and MFR (Multiple-family Residential, 2,178 sq ft land/unit)  
General Plan: RT (Two-unit Residential) and RM (Multiple Residential - 20 du/ac)

---

**Project Issues** Aesthetic/Visual; Air Quality; Biological Resources; Coastal Zone; Drainage/Absorption; Geologic/Seismic; Noise; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Wildlife; Growth Inducing; Landuse; Cumulative Effects

---

**Reviewing Agencies** Resources Agency; Department of Boating and Waterways; California Coastal Commission; Department of Parks and Recreation; Department of Water Resources; Department of Fish and Game, Region 5; Native American Heritage Commission; California Highway Patrol; State Lands Commission; Caltrans, District 12; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 8

---

**Date Received** 09/10/2008 **Start of Review** 09/10/2008 **End of Review** 10/09/2008

Note: Blanks in data fields result from insufficient information provided by lead agency.



**NOF DISTRIBUTION LIST**

County: Orange

SCH# 2007021054

Resources Agency

- Resources Agency  
Nadell Gayou
- Dept. of Boating & Waterways  
David Johnson
- California Coastal Commission  
Elizabeth A. Fuchs
- Colorado River Board  
Gerald R. Zimmerman
- Dept. of Conservation  
Sharon Howell
- California Energy Commission  
Dale Edwards
- Cal Fire  
Allen Robertson
- Office of Historic Preservation  
Wayne Donaldson
- Dept of Parks & Recreation  
Environmental Stewardship Section
- Central Valley Flood Protection Board  
Mark Herald
- S.F. Bay Conservation & Dev't. Comm.  
Steve McAdam
- Dept. of Water Resources  
Resources Agency  
Nadell Gayou

Fish and Game

- Depart. of Fish & Game  
Scott Flint  
Environmental Services Division
- Fish & Game Region 1 -  
Donald Koch
- Fish & Game Region 1E  
Laurie Harnsberger

- Fish & Game Region 2  
Jeff Drongesen
- Fish & Game Region 3  
Robert Floerke
- Fish & Game Region 4  
Julie Vance
- Fish & Game Region 5  
Don Chadwick  
Habitat Conservation Program
- Fish & Game Region 6  
Gabrina Getchel  
Habitat Conservation Program
- Fish & Game Region 6 I/M  
Gabrina Getchel  
Inyo/Mono, Habitat Conservation Program
- Dept. of Fish & Game M  
George Isaac  
Marine Region

Other Departments

- Food & Agriculture  
Steve Shaffer  
Dept. of Food and Agriculture
- Depart. of General Services  
Public School Construction
- Dept. of General Services  
Anna Garbeff  
Environmental Services Section
- Dept. of Public Health  
Veronica Malloy  
Dept. of Health/Drinking Water

Independent Commissions, Boards

- Delta Protection Commission  
Debby Eddy
- Office of Emergency Services  
Dennis Castrillo
- Governor's Office of Planning & Research  
State Clearinghouse
- Native American Heritage Comm.  
Debbie Treadway

- Public Utilities Commission  
Ken Lewis
- Santa Monica Bay Restoration  
Guangyu Wang
- State Lands Commission  
Marina Brand
- Tahoe Regional Planning Agency (TRPA)  
Cherry Jacques

Business, Trans & Housing

- Caltrans - Division of Aeronautics  
Sandy Hesnard
- Caltrans - Planning  
Terri Pencovic
- California Highway Patrol  
Shirley Kelly  
Office of Special Projects
- Housing & Community Development  
CEQA Coordinator  
Housing Policy Division

Dept. of Transportation

- Caltrans, District 1  
Rex Jackman
- Caltrans, District 2  
Marcelino Gonzalez
- Caltrans, District 3  
Bruce de Terra
- Caltrans, District 4  
Lisa Carboni
- Caltrans, District 5  
David Murray
- Caltrans, District 6  
Michael Navarro
- Caltrans, District 7  
Elmer Alvarez

- Caltrans, District 8  
Dan Kopulsky
- Caltrans, District 9  
Gayle Rosander
- Caltrans, District 10  
Tom Dumas
- Caltrans, District 11  
Jacob Armstrong
- Caltrans, District 12  
Ryan P. Chamberlain

Cal EPA

Air Resources Board

- Airport Projects  
Jim Lemer
- Transportation Projects  
Ravi Ramalingam
- Industrial Projects  
Mike Tollstrup
- California Integrated Waste Management Board  
Sue O'Leary
- State Water Resources Control Board  
Regional Programs Unit  
Division of Financial Assistance
- State Water Resources Control Board  
Student Intern, 401 Water Quality Certification Unit  
Division of Water Quality
- State Water Resources Control Board  
Steven Herrera  
Division of Water Rights
- Dept. of Toxic Substances Control  
CEQA Tracking Center
- Department of Pesticide Regulation  
CEQA Coordinator

of

Regional Water Quality Control Board (RWQCB)

- RWQCB 1  
Cathleen Hudson  
North Coast Region (1)
- RWQCB 2  
Environmental Document Coordinator  
San Francisco Bay Region (2)
- RWQCB 3  
Central Coast Region (3)
- RWQCB 4  
Teresa Rodgers  
Los Angeles Region (4)
- RWQCB 5S  
Central Valley Region (5)
- RWQCB 5F  
Central Valley Region (5)  
Fresno Branch Office
- RWQCB 5R  
Central Valley Region (5)  
Redding Branch Office
- RWQCB 6  
Lahontan Region (6)
- RWQCB 6V  
Lahontan Region (6)  
Victorville Branch Office
- RWQCB 7  
Colorado River Basin Region (7)
- RWQCB 8  
Santa Ana Region (8)
- RWQCB 9  
San Diego Region (9)
- Other \_\_\_\_\_

October 10, 2008

James Campbell  
Senior Planner  
City of Newport Beach  
3300 Newport Boulevard  
Newport Beach, CA 92685-8915

Subject: NOP, Aerie Residential Project (PA 2005-196)

Dear Mr. Campbell,

Thank you for the opportunity to comment on the Notice of Preparation (NOP) for an environmental impact report (EIR) for the Aerie residential project (PA 2005-196) located at 201-207 Carnation Avenue in Newport Beach, Orange County, California. These comments are submitted on behalf of Stop Polluting Our Newport (SPON) and myself.

The project will entail demolition of an existing residential uses to construct an 8-unit condominium building with subterranean parking. The project also includes the demolition, reconstruction and expansion of dock structures on the site.

### **The NOP**

No Initial Study (IS) accompanies the NOP. Inclusion of an Initial study with a NOP is optional. However, in accordance with Section 15082 (a) of the Guidelines for the implementation of the California Environmental Quality Act (CEQA), at a minimum, a notice of preparation shall include:

- (A) Description of the project,
- (B) Location of the project, and
- (C) Probable environmental effects of the project.

An IS is often utilized to fulfill the function of (C) above.

While the NOP includes a lengthy project description and location map, any discussion of probable environmental effects of the project is lacking. The NOP merely indicates that the following broad subject areas are proposed to be examined in the EIR:

- Aesthetics
- Air quality
- Biological resources
- Cultural Resources
- Geology and soils

- Hazards/hazardous materials
- Hydrology/water quality
- Land use/planning
- Noise
- Transportation/traffic

and that the following areas are not:

- Agricultural resources
- Mineral resources
- Population and Housing
- Public Services and facilities
- Utilities
- Recreation

The description of the existing conditions in the NOP focuses on man-made development on the site, failing to mention either land or marine resources such as eelgrass habitat or sand dollar beds. Thus, agencies receiving the NOP would have no knowledge of the potential for impacts to such resources. Because project tracking and degree of scrutiny by the agencies may be established at the NOP stage, this omission is significant. The NOP must be revised to include a description of probable environmental effects of the proposed project consistent with Guidelines Section 15082(a) and re-circulated.

### **Project Alternatives**

The applicant's representative has asserted that staff will be making a particular recommendation for approval for the proposed project. The City is reminded that the EIR is to be an integral part of the decision making process, not an after-the-fact bureaucratic exercise. It is the purpose of CEQA "not to generate paper, but to compel government at all levels to make decisions with environmental consequences in mind". (Bozung v. LAFCO (1975) 13 Cal.3d 263).

The EIR must include a meaningful, good-faith analysis of alternatives. Alternatives to be examined include:

1. An entitlement, in terms of both dwelling unit count and floor area ratio, commensurate with a land area excluding areas submerged at high tide. This must be based on real, physical conditions for the site as it currently exists.
2. An entitlement, in terms of both dwelling unit count and floor area ratio, based only on buildable acreage, excluding steep slopes in excess of 2:1 slope and excluding areas submerged at high tide. This must be based on real, physical conditions for the site as it currently exists.
3. The elimination of all penetrations below the PLOED including but not limited to any exit tunnel cut through the bluff face.
4. Provision of an adequate and reasonable setback from the PLOED.
5. Project LEED certified at the Platinum level.
6. No project.

7. Open space.

### **Potential Impacts**

Concerns regarding specific impacts which must be examined in the EIR include the following:

#### **Aesthetics**

1. Aesthetic analyses must include impacts from public waterways as well as from land based viewing areas.
2. The analysis must address impacts to the visual quality of the shoreline as well as the bluff.
3. Potential for light and glare must be addressed, with special attention given to the large expanses of glass proposed for the portion of the project facing the water.

#### **Air Quality**

1. The analysis must address localized emissions, particularly during construction. This includes fugitive dust and diesel emissions from on-site construction equipment as well as any hot spots along haul routes or those created due to construction congestion or detours.
2. Greenhouse gases must be addressed.
3. Emissions from boats, including generators, must be addressed. To the extent feasible, vessel equipment should be powered by connection to the electric utility system when vessels are docked.
4. The analysis must address venting of below grade parking, particularly any areas where concentrations of garage exhaust may vent toward neighbors.

#### **Biological Resources**

1. Impacts on eelgrass beds must be addressed, including ongoing impacts from dock utilization. Avoidance is the preferred option.
2. Impacts on sand dollar beds must be addressed. Avoidance is the preferred option.
3. Adequate buffers must be identified and provided.
4. The EIR must address reduction of sunlight to the marine habitat resulting from the expanded docks and the larger vessels to be accommodated.
5. Land resources, including vegetation, must also be examined.
6. Impacts on avifauna due to reflective surfaces must be examined.
7. Impacts due to noise and night lighting must be examined. This includes impacts on marine life.
8. Biological impacts due to impacts on water quality must be addressed.

#### **Geology and soils**

1. This section must address any instability in surrounding areas due to excavation on the subject property. This must include any impacts on public infrastructure or utilities.
2. The EIR must include grading plans and cross sections.

#### **Hazards/hazardous materials**

1. The EIR must address materials which may be released into the air or water during

- demolition, including asbestos and lead based paints.
2. The EIR must examine the effect of construction activities on evacuation routes and emergency response. Of greatest concern is continued access to all homes on Carnation Avenue.

#### **Hydrology/Water Quality**

1. The analysis must address impacts during construction and demolition of on-site facilities on water quality, including disturbance of existing sediments.
2. The analysis must address any heavy metals, pesticides or other materials in on-site sediments which may be disturbed during dock construction/demolition.
3. Long term impacts on water quality associated with the docks must be addressed.
4. Impacts due to urban runoff must be addressed.
5. Any impacts on sand transport/shoreline processes must be addressed. This includes impacts on and off the project site.

#### **Land Use/Planning**

1. It is not clear what portion of the site consists of tidelands and is thus subject to the tidelands trust doctrine. Appropriate use of tidelands must be addressed. Residential uses are not normally considered appropriate uses of tidelands and thus any tidelands areas must be excluded when calculating allowable density.
2. In accordance with Guidelines Section 15125(d) the EIR must discuss any inconsistencies between the proposed project and existing planning programs.
3. Public access to the shoreline, both from land and water, must be addressed.

#### **Noise**

1. SENELs as well as CNELs must be addressed.
2. Noise must be addressed in terms disturbance or discomfort to humans, not just conformance with ordinances that may exempt certain types of noise from regulation.
3. Potential for noise to carry across the water must be addressed.
4. Temporary relocation of sensitive receptors must be considered as mitigation.

#### **Transportation/Traffic**

1. Impacts on haul routes must be addressed.
2. Impacts on emergency response and evacuation routes must be addressed.
3. Public rights of way must not be used as storage areas or staging areas.
4. Mitigation strategies must provide for at least one lane of traffic to be available for access to Carnation Avenue at all times.

#### **Population and Housing**

1. The project must be evaluated in light of city policies regarding inclusionary housing.
2. The project must be evaluated in light of housing requirements in the coastal zone stipulated in Section 65590 of the California Government Code.

#### **Public Services and Utilities**

1. Impacts on utilities and public services, including but not limited to police protection, fire

- protection, and the Harbor Patrol, must be examined.
2. Potential disruption to navigation or Harbor Patrol services must be examined.
  3. Any potential for disruption of public services and utilities during construction must be examined. Of particular concern are impacts due to excavation.
  4. Examination of impacts associated with energy consumption must include unique project features which will consume energy, including automobile elevators and any need for mechanical ventilation of below ground parking.

**Recreation**

The EIR must examine how the greatly expanded dock area and larger vessels may block off the shoreline and discourage access to the existing, open cove.

Thank you for this opportunity to comment. We look forward to reviewing the DEIR when it becomes available.

Yours truly,

Sandra L. Genis

James Campbell, Senior Planner  
City of Newport Beach  
Planning Department  
3300 Newport Beach, CA 92658-8915

Project: Aerie (PA2005-196)

Project Location: 201-207 Carnation Avenue (West side of Carnation Avenue at the intersection of Ocean Boulevard) & 101 Bayside Place

Lead Agency: City of Newport Beach

Dear Mr. Campbell,

Having received a copy of your notice on September 12, 2008 stating that the City of Newport Beach has determined the proposed project will require the preparation of an EIR (sent to us by Keeton Kreitzer); this letter represents our response and comments within the thirty day time period.

In reviewing the potentially significant environmental effects that will be evaluated in the EIR, we would like to bring to your attention several issues that were overlooked and must be included in the study.

1. One issue in particular that will obviously create significant impacts by substantially increasing the mass of the project to its current proposed size of approximately 62,282 square feet is the unreasonable calculation used in determining the buildable area of the property. The site is 61,284 square feet (1.4 acres). What has never been addressed by the City in response to the public's outcry over the massive size of the proposed structure is that approximately 66% of the property is either submerged land (28,414 square feet or 46% of the site), or unbuildable slope greater than 50% (11,926 square feet or 20% of the site). The City uses two different calculations to determine "buildable area", the Density Calculation and the Floor Area Ratio (FAR). In the density calculation the submerged land and slope in excess of 50% "are removed" from the land area before calculating density, but in the FAR calculation the submerged lands and slope "are not" removed before calculating build-able area. While the inclusion of the slope in excess of 50% in the buildable area is arguable, the inclusion of the submerged land in the buildable area is ridiculous. If the maximum square footage calculation removed the land area within the front and side yard setbacks and the submerged land area (and it should because the submerged land area is NOT buildable) and allowed the slope in excess of 50% to be included, the buildable area would be approximately 29,300 square feet. Multiplying this buildable area by the FAR factor of 1.5, which is the norm for the area, would result in a maximum square footage of approximately 44,000 square feet, a whopping 30% smaller building than currently proposed. Further, this reasonable calculation would result in a project that provides a per unit square footage of approximately

5,500 square feet, a per unit size that still exceeds the size and scale of residential structures in the area, whether single family or multi family. Conversely, the city is recommending approval of a project that provides 8 units in 62,000 square feet or 7,750 square feet per unit. (It is important to note that the existing structures total approximately 16,498 square feet in 13 units or roughly 1,270 square feet per unit.)

The fact that there are no other condominiums or single family homes in the neighborhood that even come close to 7,750 square feet has been brought to the attention of the Planning Commission multiple times, as has the massive size of the project. The inclusion of the submerged land in the buildable area calculations results in a humongous mass of a structure that is completely out of scale and character with the existing neighborhood and surrounding area to the point of dwarfing other structures and therefore in violation of the General Plan and LCP bluff protection policies. This is NOT the norm for other properties in the City or for other properties located on sensitive coastal bluffs in Corona del Mar. The McIntosh home adjacent to the subject property did not include submerged lands in their buildable area. The question remains, why has this not been addressed before, and how can it be acceptable to allow land that is unusable and unlivable to ever be considered as buildable area in the proposal of such an unreasonable building mass?

2. Another important issue per your notice that was NOT going to be addressed in the EIR is "Recreation". This study must be included since the proposed addition of eight boat docks plus a guest dock in this new configuration will project much further into the harbor than the existing dock, and will significantly limit the recreational use of Carnation Cove and this part of the harbor by restricting access. This area is frequently used for recreation by kayakers, paddlers and small boats. Relevant to the EIR, it is important to note that at a preliminary Harbor Commission meeting on the proposed dock system the majority of Commissioners expressed concern that the docks and large vessels would project so far into the harbor that it would interfere with the flow of boat traffic and the public right-of-way. According to the most recent plans submitted to the Harbor Commission the docks would project approximately 61' beyond the bulkhead line with two 60' boats in their slips. This is much further out than the existing dock, and the docks on either side of the subject property, the McIntosh dock to the East and the Sprague dock to the west. In addition to the proposed dock system a 155' wave attenuator wall is proposed which would further limit public access to the cove and could cause "major shoaling problems", as could the construction of such a large marina, which was also of concern to the Harbor Commission. Furthermore, any environmental evaluation should study the possibility that the wave attenuator may redirect a swell to impact other areas of the harbor, such as across the bay on the Peninsula, since for years the existing cove has acted as a natural buffer.



3. Attention must be given in the EIR to the importance of Carnation Cove and its existence as “an important marine relic habitat that no longer exists in other areas of Newport Bay” as stated in the most recent MND, which was the first MND to include any mention of the dock expansion plan. The scenic rock formations would be obscured from public view by the boats in the proposed marina, and possibly damaged during construction. The MND also states that “in addition to eelgrass, the study determined that Carnation Cove supports an extremely diverse assemblage of plant and animal life due to its locality near the Harbor Entrance Channel, and the combination of rocky outcrops and fine sands-to-silt substrates. This region of the harbor shares many characteristics common to nearshore subtidal reef and sand bottom marine habitats and communities located off Corona del mar”. It was laughable that in a discussion on mitigating impacts to the sand dollar population in the cove at the City Council meeting on July 22, 2008 it was suggested that construction workers be told to “avoid them by going around the areas where there are sand dollars”. The importance of Carnation Cove should be noted, and that it is the last existing natural cove in Newport Harbor other than Pirate’s Cove.
4. The proposed excavation will reshape the bluff edge, remove substantial mass from the natural landform, and create a hazardous condition that will either result in an increased vulnerability to bluff erosion, or to rockfall and block failure of the portion of the bluff that is below the established Predominant Line of Existing Development (PLOED). This raises public safety concerns that will require railings and/or other protection devices since the massive excavation will result in a sheer drop-off as it cuts 40-50 feet straight down from the curb. As this is a designated Public View Corridor, the City should be aware of the potential for injury that could occur, and also that the necessary protection devices are prohibited by the CLUP. These protection devices will also have negative aesthetic impacts on the view from this area. As stated in the Staff Report of June 19, 2008, “Guardrails are necessary to protect pedestrians from falling from the public sidewalk along Carnation Avenue over the proposed retaining wall located at the back of the sidewalk”.
5. Another important issue that must be evaluated is the excavation required for the emergency exit “tunnel” cut through the bluff face at 40.5 feet, which is well below the PLOED of 50.7 feet given to the applicant by the City Council, and in clear violation of CLUP and LCP policies. The excavation for this “cut-through” or “tunnel” will have a tremendous impact on the bluff face, most likely causing failure of the thin portion of bluff that would remain as a façade (see expert testimony and public record correspondence from Moote Group, John Martin and Associates, David H. Lee and Associates, respected architects and other well-known builders and developers, and from the environmental group SPON). That this is likely has been publicly acknowledged by Brion Jeanette, the project’s architect, both in his plans and presentation, that “fake rock” will be needed to replace a part or possibly all of the bluff face damaged by this excavation. This is

in violation of the City's own codes and GP, to damage or destroy the coastal bluff by attempting to go below the 50.7 foot PLOED. The PLOED average for Carnation Avenue properties is 53.7 feet.

6. Also, as stated in the Notice of Preparation of EIR, we can only question "a pool located on the basement level that will be partially open to the sky allowing light and air to circulate to the pool area". It is unclear how a pool will be excavated at the subterranean level, again, well below the PLOED of 50.7 feet, without damage to the bluff face. Or perhaps it is also an access tunnel/doorway to the pool or beach? Although labeled an "emergency exit" on the plans it appears it is clearly intended to be used on a regular basis by the occupants of the building and others, and has been offered as such to the Harbor Resources Department for the use of their employees whenever they are in the area, despite having their own facilities just a few blocks from the proposed site. But regardless of how it is presented, it is obvious that the use of hoe rams and other heavy excavation equipment necessary for the proposed "tunnel" and "pool", as well as the subterranean portion of the project will severely impact the bluff and bluff face, potentially causing bluff failure, as well as damage to surrounding properties and streets. (See above referenced expert testimony from paragraph 5).
7. Other issues that must be included when evaluating "Aesthetics" are the proposed multiple cantilevered decks and overhangs which would project out 10-15 feet and violate several CLUP and General Plan policies that are supposed to protect scenic and visual resources such as coastal views and scenic vistas. These include CLUP Policies 4.4 and 4.4.1-1, among others, Policy NR 23.1, as well as Section 30251 of the Coastal Act. There are also other bluff protection policies and bluff set-back policies that must be considered. "Outdoor patios, decks, spas and firepits are proposed at each above grade level", with the firepits being a new addition that could affect air quality in the neighborhood, harbor and surrounding area. The visual impact of this hotel-like structure, including decks with umbrellas and awnings, must be considered as it will impact public views from the Ocean Boulevard view corridor and Begonia Park, and be visible from Balboa Island, the Balboa Peninsula and Newport Harbor.
8. In the study of "Noise", it must be taken into account the noise impacts on the residents "across the bay", on the Balboa Peninsula, as well as in the immediate neighborhood. In a previous correspondence to the City we cited an instance where the police were called with a noise complaint at the Vallejo home, but the noise was actually from a party at a home" across" the harbor. Due to the proposed massive excavation and the equipment involved in that excavation (hoe rams, pile drivers etc.), it should be noted that any construction work done across the bay on the Balboa Peninsula can be heard in this area of Corona del Mar, and that there has been nothing constructed across from here that is on a comparable scale to the proposed project, and with the potential for such extreme noise impact. Another example of how sound travels, and is magnified across the water, is that children can be heard playing on the public beach on the peninsula.

9. We expect that the impacts from the vibrations and the potential damage to surrounding properties and streets will be thoroughly studied for a proposed excavation of this size, and that the impacts from the use of hoe rams, pile drivers and other heavy equipment will be examined thoroughly.
  
10. Another issue that was not studied sufficiently but was mentioned in past staff reports due to possible code violations is the impact to the neighborhood of the highly inconvenient parking configuration. It appears there will be approximately 30 subterranean parking spaces accessed by two car elevators, with one elevator that must remain at the subterranean level at all times for emergencies. This parking configuration is a direct result of trying to put such a large building mass on such a constrained property and creates many potential problems including blocking of the public right-of-way if the elevators are in use and there is queuing into the street. This could result in a potentially hazardous situation on what is already a blind corner, as cars in the public right-of-way may attempt to go around those queuing in the street. This is especially true on weekends and during the summer, when the streets are congested with beachgoers looking for on-street parking. This is addressed in Policy 2.9.3-1 of the CLUP, as well as two Circulation Element Policies including policy CE 71.1, which are in place to protect our neighborhoods from this kind of negative impact. It should be noted that the use of a subterranean parking garage for a multi-family residential complex is unprecedented in the City of Newport Beach, and will add a significant number of cars to the neighborhood. There is also the additional explosion risk in an enclosed parking structure of this type.
  
11. In the category of “Biological Resources” it should be noted that the applicant had native plant species stripped from the bluff in approximately December of 2007. Photos of the native species that had previously existed include Lemonadeberry (*Rhus integrifolia*), Coast Sunflower (*Encelia californica*) and California Buckwheat (*Eriogonum fasciculatum*). Apparently the California Coastal Commission issued a violation regarding this, along with direction to replant the native vegetation, which, it appears, has not been attempted.
  
12. In reference to the oversized and overbuilt nature of the proposed project, Land Use Policy 3.2 states: “Enhance existing neighborhoods, districts and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale and character”.
  
13. Land Use Policy 5.1.1 states: “Establish property development regulations for residential projects to create compatible and high quality development that contribute to neighborhood character”.

It must be pointed out that in the Notice of Preparation of EIR it states that “south and east of the Site are a mix of family and multi-family residential buildings and the

Kerkchoff Marine Laboratory, all developed on the coastal bluff face between Ocean Boulevard and Newport Harbor”. It should also have been stated that Ocean Boulevard allows development on the bluff face since there is a height limit of no more than 3 feet above curb height. The subject property is on Carnation, where properties are located “on top” of the bluff and do not have this height restriction. Since this point was obviously ignored after having been brought to the attention of the Planning Commission in May of 2007 shouldn't it have been clarified in this notice? The project's architect, who also does advisory work for the City, continues to use examples of other bluff developments he has done that are not relevant to this project due to the difference in location and codes. Clearly this project has been flawed from the beginning in its attempt to make the proposed structure “as large as possible” by using their own rules, and has been allowed to progress by attempting to manipulate a City's legal process, its Planning Commission, staff, the language of the CLUP and the PLOED, (which they decided on themselves), as well as an entire neighborhood. Until recently this plan had succeeded, and all in an attempt to overbuild for profit at the expense of the existing neighborhood, public coastal views, and a protected coastal bluff. Had a group of concerned citizens not taken notice, studied the policies and codes, had meetings, hired attorneys and independent experts to testify against the untruths and misinformation that have been perpetuated throughout this process, this project would have passed at 73,000+ square feet, without the necessary due diligence, and the question “how could this happen in our City?” would have been asked after the fact, and the City and its residents would forever live with a massive overbuilt structure that would set precedent for future condominium complexes in the City. Many citizens requested an EIR on this project for more than a year and had been repeatedly denied, when the project itself should have been denied. Why is it the job and financial responsibility of private citizens to monitor the Planning Commission and staff? No more inadequate MND's that were re-circulated multiple times. We expect a professional, unbiased and accurate EIR to finally be done on this project. Anything less would a travesty for us and other concerned citizens, as well as for the City of Newport Beach and its New General Plan.

Sincerely,

Joseph and Lisa Vallejo

Kathleen and John McIntosh



# South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178  
(909) 396-2000 • www.aqmd.gov

RECEIVED BY  
PLANNING DEPARTMENT

SEP 18 2008

CITY OF NEWPORT BEACH

September 16, 2008

Mr. James Campbell, Senior Planner  
City of Newport Beach  
Planning Department  
P.O. Box 1768  
Newport Beach, CA 92658-8915

Dear Mr. Campbell:

## **Notice of Preparation of a Draft Environmental Impact Report (Draft EIR) for the Aerie (PA2005-196) Project**

The South Coast Air Quality Management District (SCAQMD) appreciates the opportunity to comment on the above-mentioned document. The SCAQMD's comments are recommendations regarding the analysis of potential air quality impacts from the proposed project that should be included in the draft environmental impact report (EIR). Please send the SCAQMD a copy of the Draft EIR upon its completion. **In addition, please send with the draft EIR all appendices or technical documents related to the air quality analysis and electronic versions of all air quality modeling and health risk assessment files. Without all files and supporting air quality documentation, the SCAQMD will be unable to complete its review of the air quality analysis in a timely manner. Any delays in providing all supporting air quality documentation will require additional time for review beyond the end of the comment period.**

### **Air Quality Analysis**

The SCAQMD adopted its California Environmental Quality Act (CEQA) Air Quality Handbook in 1993 to assist other public agencies with the preparation of air quality analyses. The SCAQMD recommends that the Lead Agency use this Handbook as guidance when preparing its air quality analysis. Copies of the Handbook are available from the SCAQMD's Subscription Services Department by calling (909) 396-3720. Alternatively, the lead agency may wish to consider using the California Air Resources Board (CARB) approved URBEMIS 2007 Model. This model is available on the SCAQMD Website at: [www.urbemis.com](http://www.urbemis.com).

The Lead Agency should identify any potential adverse air quality impacts that could occur from all phases of the project and all air pollutant sources related to the project. Air quality impacts from both construction (including demolition, if any) and operations should be calculated. Construction-related air quality impacts typically include, but are not limited to, emissions from the use of heavy-duty equipment from grading, earth-loading/unloading, paving, architectural coatings, off-road mobile sources (e.g., heavy-duty construction equipment) and on-road mobile sources (e.g., construction worker vehicle trips, material transport trips). Operation-related air quality impacts may include, but are not limited to, emissions from stationary sources (e.g., boilers), area sources (e.g., solvents and coatings), and vehicular trips (e.g., on- and off-road tailpipe emissions and entrained dust). Air quality impacts from indirect sources, that is, sources that generate or attract vehicular trips should be included in the analysis.

The SCAQMD has developed a methodology for calculating PM<sub>2.5</sub> emissions from construction and operational activities and processes. In connection with developing PM<sub>2.5</sub> calculation methodologies, the SCAQMD has also developed both regional and localized significance thresholds. The SCAQMD requests that the lead agency quantify PM<sub>2.5</sub> emissions and compare the results to the recommended PM<sub>2.5</sub> significance thresholds. Guidance for calculating PM<sub>2.5</sub> emissions and PM<sub>2.5</sub> significance thresholds can be found at the following internet address: [http://www.aqmd.gov/ceqa/handbook/PM2\\_5/PM2\\_5.html](http://www.aqmd.gov/ceqa/handbook/PM2_5/PM2_5.html).

In addition to analyzing regional air quality impacts the SCAQMD recommends calculating localized air quality impacts and comparing the results to localized significance thresholds (LSTs). LST's can be used in addition to the recommended regional significance thresholds as a second indication of air quality impacts when preparing a CEQA document. Therefore, when preparing the air quality analysis for the proposed project, it is recommended that the lead agency perform a localized significance analysis by either using the LSTs developed by the SCAQMD or performing dispersion modeling as necessary. Guidance for performing a localized air quality analysis can be found at <http://www.aqmd.gov/ceqa/handbook/LST/LST.html>.

It is recommended that lead agencies for projects generating or attracting vehicular trips, especially heavy-duty diesel-fueled vehicles, perform a mobile source health risk assessment. Guidance for performing a mobile source health risk assessment ("Health Risk Assessment Guidance for Analyzing Cancer Risk from Mobile Source Diesel Idling Emissions for CEQA Air Quality Analysis") can be found on the SCAQMD's CEQA web pages at the following internet address: [http://www.aqmd.gov/ceqa/handbook/mobile\\_toxic/mobile\\_toxic.html](http://www.aqmd.gov/ceqa/handbook/mobile_toxic/mobile_toxic.html). An analysis of all toxic air contaminant impacts due to the decommissioning or use of equipment potentially generating such air pollutants should also be included.

### **Mitigation Measures**

In the event that the project generates significant adverse air quality impacts, CEQA requires that all feasible mitigation measures that go beyond what is required by law be utilized during project construction and operation to minimize or eliminate significant adverse air quality impacts. To assist the Lead Agency with identifying possible mitigation measures for the project, please refer to Chapter 11 of the SCAQMD CEQA Air Quality Handbook for sample air quality mitigation measures. Additional mitigation measures can be found on the SCAQMD's CEQA web pages at the following internet address: [www.aqmd.gov/ceqa/handbook/mitigation/MM\\_intro.html](http://www.aqmd.gov/ceqa/handbook/mitigation/MM_intro.html) Additionally, SCAQMD's Rule 403 – Fugitive Dust, and the Implementation Handbook contain numerous measures for controlling construction-related emissions that should be considered for use as CEQA mitigation if not otherwise required. Other measures to reduce air quality impacts from land use projects can be found in the SCAQMD's Guidance Document for Addressing Air Quality Issues in General Plans and Local Planning. This document can be found at the following internet address: <http://www.aqmd.gov/prdas/aqguide/aqguide.html>. In addition, guidance on siting incompatible land uses can be found in the California Air Resources Board's Air Quality and Land Use Handbook: A Community Perspective, which can be found at the following internet address: <http://www.arb.ca.gov/ch/handbook.pdf>. Pursuant to state CEQA Guidelines §15126.4 (a)(1)(D), any impacts resulting from mitigation measures must also be discussed.

### **Data Sources**

SCAQMD rules and relevant air quality reports and data are available by calling the SCAQMD's Public Information Center at (909) 396-2039. Much of the information available through the Public Information Center is also available via the SCAQMD's World Wide Web Homepage (<http://www.aqmd.gov>).

The SCAQMD is willing to work with the Lead Agency to ensure that project-related emissions are accurately identified, categorized, and evaluated. Please call Daniel Garcia, Air Quality Specialist, CEQA Section, at (909) 396-3304 if you have any questions regarding this letter.

Sincerely,



Steve Smith, Ph.D.

Program Supervisor, CEQA Section

Planning, Rule Development and Area Sources

SS:DG:AK

ORC080911-04AK

Control Number