

**CITY OF NEWPORT BEACH  
MODIFICATIONS STAFF ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Planning Department  
Javier Garcia, Zoning Administrator  
[jgarcia@city.newport-beach.ca.us](mailto:jgarcia@city.newport-beach.ca.us)

SUBJECT: Report of the actions taken for the Modifications Hearing on Thursday,  
February 14, 2008

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Item 1: Parcel Map No. NP2007-032 (PA2007-236)  
608 Narcissus Avenue

Request to approve a parcel map for condominium purposes. The property is currently occupied by a single family residence that will be demolished and replaced by a two-unit condominium project. Each unit will be provided the Zoning Code required two-car parking. No exceptions to the development standards of Title 19 are proposed with this project. The property is located in the R-2 District.

This item was approved.

Council District 6

Item 2: Modification Permit No. MD2007-259 (PA207-093)  
14 Linda Isle

Request to permit encroachments of a shoring and caisson system a maximum 1 foot into each required 4-foot side yard setback which will provide support for a new single family dwelling with basement. The property is located in the R-1 District.

This item was approved.

Council District 5

Item 3: Modification Permit No. MD2008-001 (PA2008-002)  
2 Ironwood

Request to permit an exterior, freestanding barbeque and entertainment center that encroaches 5 feet into the required 10-foot rear yard setback. The property is located in the PC-24 (Aeronutronic Ford) District.

This item was approved.

Council District 4

Item 4: Modification Permit No. MD2008-002 (PA2008-003)  
4 Ironwood

Request to permit a fireplace to encroach 2 feet into the 5-foot side yard setback. The property is located in the PC-24 (Aeronutronic Ford) District.

This item was approved. Council District 4

Item 5: Modification Permit No. MD2008-004 (PA2008-003)  
1414 West Ocean Front

Request to permit encroachment of an entry arch and gate 3 feet into the required 3-foot side yard setback. The entry arch and gate will have a height range between 7 feet to 9 feet and will provide a defined entry to a new single family dwelling that is adjacent to the ocean front. The property is located in the R-2 District.

This item was approved. Council District 1

Item 6: Modification Permit No. MD2008-004 (PA2008-005)  
2830 Bayview Drive

Request to permit a maximum 6-foot 4-inch encroachment into the required 10-foot rear yard setback with the following elements of an addition to an existing, one-story garage: spiral stair from the second floor to a third floor deck, related landing and tempered glass guardrail at the second floor required for the spiral stair to the third floor deck, and a portion of the third floor deck and tempered glass guardrail. The existing garage is non-conforming because it encroaches 6 feet 4 inches into the required 10-foot rear yard setback. The property is located in the R-1 District.

This item was approved. Council District 6

Item 7: Modification Permit No. MD2008-005 (PA2006-006)  
505 and 505 ½ Marguerite Avenue

Request to allow the separation of an existing two-car garage into two, single-car garage spaces, each of which will have a clear interior width of 8 feet 9 inches where the Zoning Code requires a minimum 9 feet 3 inches. Both parking spaces will meet the Zoning Code required minimum clear interior depth of 19 feet. The property is located in the R-2 District.

This item was approved. Council District 6

Item 8: Modification Permit No. MD2008-006 (PA2008-007)  
100 Bayview Circle

Request to permit one, illuminated, channel letter sign on the exterior face of a commercial office building that exceeds the 4-foot maximum height limit by 1 foot 9 inches. The program was approved to allow the logo with maximum vertical dimension of 6 feet, test/copy with maximum height of 4 feet and overall maximum area of 162 square feet. Additionally, a condition of approval was included requiring the illumination to be turned off between the hours of 10 PM and 7 AM. The property is located in the PC-32 (Bayview Planned Community) District.

This item was approved.

Council District 6

Item 9: Modification Permit No. MD2008-007 (PA2008-009)  
311 Fernlead Avenue

Request to permit the remodel and addition of between 25% and 50% of the existing gross square footage of an existing non-conforming three unit residential condo structure. The proposed additional square footage conforms to all required setbacks. The existing triplex is non-conforming because it encroaches 1 foot into the required 4-foot northwesterly side yard setback and does not provide guest parking required for multi-family dwellings. The condominium conversion was approved prior to changes to parking regulations that required two-car parking per dwelling unit and guest parking. The existing three-unit residential condo structure provides two parking spaces per unit, including five garage spaces, all of which are proposed to remain. The property is located in the MFR (2140) District.

This item was approved.

Council District 6

Item 10: Modification Permit No. MD2008-008 (PA2008-010)  
1700 16<sup>th</sup> Street

Request to allow the construction of two single-face monument signs and the retention of an existing pole sign. The proposed monument signs will be 6 feet in height and width, and located on site at the intersections of Sherington Place and Sea Gull Lane and 16th Street and Sea Gull Lane. The Zoning Code allows one freestanding sign per site, limited to 12 square feet in area and located only at the main entrance. This proposal is similar to signs approved by Modification No. 5159 for adjacent parcel at 880 Irvine Avenue. The property is located in the PC-4 (Coronado Apartments, formerly Oakwood Apartments) District.

This item was approved.

Council District 3

Prepared and submitted by:



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Javier S. Garcia, Zoning Administrator

APPEAL: The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

- c: David Lepo, Planning Director (*e-mail*)
- Sharon Wood, Assistant City Manager (*e-mail*)
- David Keely, Public Works Senior Civil Engineer (*e-mail*)
- Melinda Gondrez, Assistant Planner (*e-mail*)
- Kay Sims, Assistant Planner (*e-mail*)
- Sgt. Ron Vallercamp, Vice/Narcotics (*e-mail*)
- Code Enforcement Division(*e-mail*)
- Erin Steffen, Office Assistant (*e-mail*)
- Iris Lee, Public Works (*e-mail*)
- Evelyn Tseng, Revenue (*e-mail*)



**PARCEL MAP NO. NP2007-032**  
(PA2007-236)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

**Application No.** Parcel Map No. NP2007-032 (PA2007-236)  
**Applicant** County Parcel Map No. 2007-223  
Stephen W. Graeber  
**Site Address** 608 Narcissus Avenue  
**Legal Description** Lot 10 , Block 641, Tract 648, Resub of Corona Del Mar

On **February 14, 2008**, the Zoning Administrator approved the parcel map request for condominium purposes. The property is currently occupied by a single family residence that will be demolished and replaced by a two-unit condominium project. Each unit will be provided the Zoning Code required two-car parking. No exceptions to the development standards of Title 19 are proposed with this project. The property is located in the R-2 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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**FINDINGS**

The Zoning Administrator determined in this case that the proposed parcel map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 of Title 19:

1. The proposed parcel map is for condominium purposes. An existing single-family residence will be demolished and a new two-unit building will be constructed. The existing density of the lot will be increased by one unit. The proposed subdivision and improvements are consistent with the density of the Zoning District "R-2" and the current General Plan Land Use Designation "Two Unit Residential".
2. The lot is regular in shape and has very little slope which indicates that the site is suitable for development.
3. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 5 (Minor Alterations in Land Use Limitations) and Class 15 (Minor Land Divisions).

4. The proposed parcel map is for residential condominium purposes. The construction of the proposed condominiums will comply with all Building, Public Works, and Fire Codes. Public improvements will be required of the developer per Section 19.28.010 of the Municipal Code and Section 66411 of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.
5. The design of the subdivision will not conflict with any easements acquired by the public-at-large for access through or use of the property within the proposed subdivision. Currently, there are no public easements located on the property.
6. The property is not subject to the Williamson Act since its use is not agricultural.
7. The property is not located within the boundaries of a specific plan and is not subject to any specific plan regulations.
8. The proposed subdivision and improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Department enforces Title 24 compliance through the plan check and inspection process.
9. The proposed subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 655584 of the California Government Code regarding the City's share of the regional housing need. The residential density on the site will be increased by one unit. No affordable housing units are being eliminated based upon the fact that the existing single-family residence is not occupied by a low or moderate income household.
10. Wastewater discharge into the existing sewer system will remain the same and does not violate Regional Water Quality Control Board (RWQCB) requirements.
11. The proposed parcel map conforms to the certified Local Coastal Program since the site is located in a two-family residential development and is not located within the Coastal Zone.

### **CONDITIONS**

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

2. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set **on each lot corner**, unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. All applicable Public Works Department plan check fees, park dedication fees, improvement bonds and inspection fees shall be paid prior to processing of the map by the Public Works Department.
5. Arrangements shall be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements if it is desired to record a parcel map or obtain a building permit prior to completion of the public improvements.
6. In accordance with the provisions of Chapter 13 of the Newport Beach Municipal Code or other applicable section or chapter, street trees shall be planted along the Narcissus Avenue frontage. Contact Mr. John Conway of the General Services Department at (949) 644-3083 for the size and species of tree required.
7. All existing drainage facilities in the public right-of-way shall be retrofitted to comply with the City's on-site non-storm runoff retention requirements. The Public Works inspector shall field verify compliance with this requirement prior to recordation of the parcel map.
8. All on-site drainage shall comply with the latest city Water Quality requirements.
9. All improvements shall comply with the City's sight distance requirement. See city Standard 110-L.
10. Each dwelling unit shall be served with an individual water service and sewer lateral connection to the public water and sewer systems, unless otherwise approved by the Public Works Department and the Building Department.
11. Each unit shall be connected to its individual water meter and sewer lateral and cleanout located within the public right-of-way. If installed at a location that will be subjected to vehicle traffic, each water meter and sewer cleanout shall be installed with a traffic-grade box/frame and cover.
12. Each dwelling unit shall be served with individual gas and electrical service connection and shall maintain separate meters for the utilities.

13. Overhead utilities serving the site shall be undergrounded to the nearest appropriate pole in accordance with Section 19.28.090 of the Municipal Code unless it is determined by the City Engineer that such undergrounding is unreasonable or impractical.
14. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, damaged concrete curb and gutter along the Narcissus Avenue frontage. Extent of work will be determined by the Public Works Inspector.
15. A minimum 12-inch wide by 12-inch deep full depth AC patchback is required against the new edge of gutter along the length of all curb and gutter reconstruction work. Tack coat all joint surfaces prior to patchback placement.
16. Additional public works improvements, including street and alley reconstruction work may be required at the discretion of the Public Works Inspector.
17. Narcissus Avenue is part of the City's Moratorium List. Work performed on said roadways will require additional surfacing requirements. See City Standard 105-L-F.
18. If any of the existing public improvements surrounding the site are damaged by the private work, public works improvements including, but not limited to, curb and gutter, sidewalk, and alley/street reconstruction may be required at the discretion of the Public Works Inspector.
19. All work conducted within the public right-of-way shall be approved under an encroachment permit issued by the Public Works Department.
20. An encroachment agreement shall be applied for and approved by the Public Works Department for all non-standard private improvements within the public right-of-way.
21. All above ground improvements shall stay a minimum 5-foot clear of the alley setback.
22. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
23. Install new sod or low groundcovers of the type approved by the city throughout the Narcissus Avenue parkway fronting the development site.
24. Two-car parking shall be provided on site for each dwelling unit per requirements of the Zoning code.



25. Disruption caused by construction work along roadways and by movement of construction vehicles shall be minimized by proper use of traffic control equipment and flagmen. Traffic control and transportation of equipment and materials shall be conducted in accordance with state and local requirements.
26. All vehicular access to the property shall be from the adjacent alley, unless otherwise approved by the City Council.
27. In compliance with the requirements of Chapter 9.04, Section 901.4.4, of the Newport Beach Municipal Code, approved street numbers or addresses shall be placed on all new and existing buildings in such a location that is plainly visible and legible from the street or road fronting the subject property. Said numbers shall be of non-combustible materials, shall contrast with the background and shall be either internally or externally illuminated to be visible at night. Numbers shall be no less than four inches in height with a one-inch wide stroke. The Planning Department Plan Check designee shall verify the installation of the approved street number or addresses during the plan check process for the new or remodeled structure.
28. County Sanitation District fees shall be paid prior to issuance of any building permits, if required by the Public Works Department or the Building Department.
29. Prior to recordation of the parcel map, fair share fees for one (1) dwelling unit shall be paid in accordance with City Ordinance 94-19 of the Newport Beach Municipal Code.
30. Prior to recordation of the parcel map, park dedication fees for one dwelling unit shall be paid in accordance with Chapter 19.52 of the Newport Beach Municipal Code. This fee shall be paid at the time the map is submitted to the Public Works department for plan check, unless evidence from a competent authority with regard to the existence of two dwelling units is provided to the Planning Department.
31. Subsequent to recordation of the parcel map, the applicant shall apply for a building permit for description change of the subject project developments from "duplex" to "condominium." **The development will not be condominiums until this permit is finalized.**
32. This parcel map shall expire if the map has not been recorded within 3 years of the date of approval, unless an extension is granted by the Planning Director in accordance with the provisions of Section 19.16 of the Newport Beach Municipal Code.

**APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired.

By:   
Zoning Administrator Javier S. Garcia, AICP

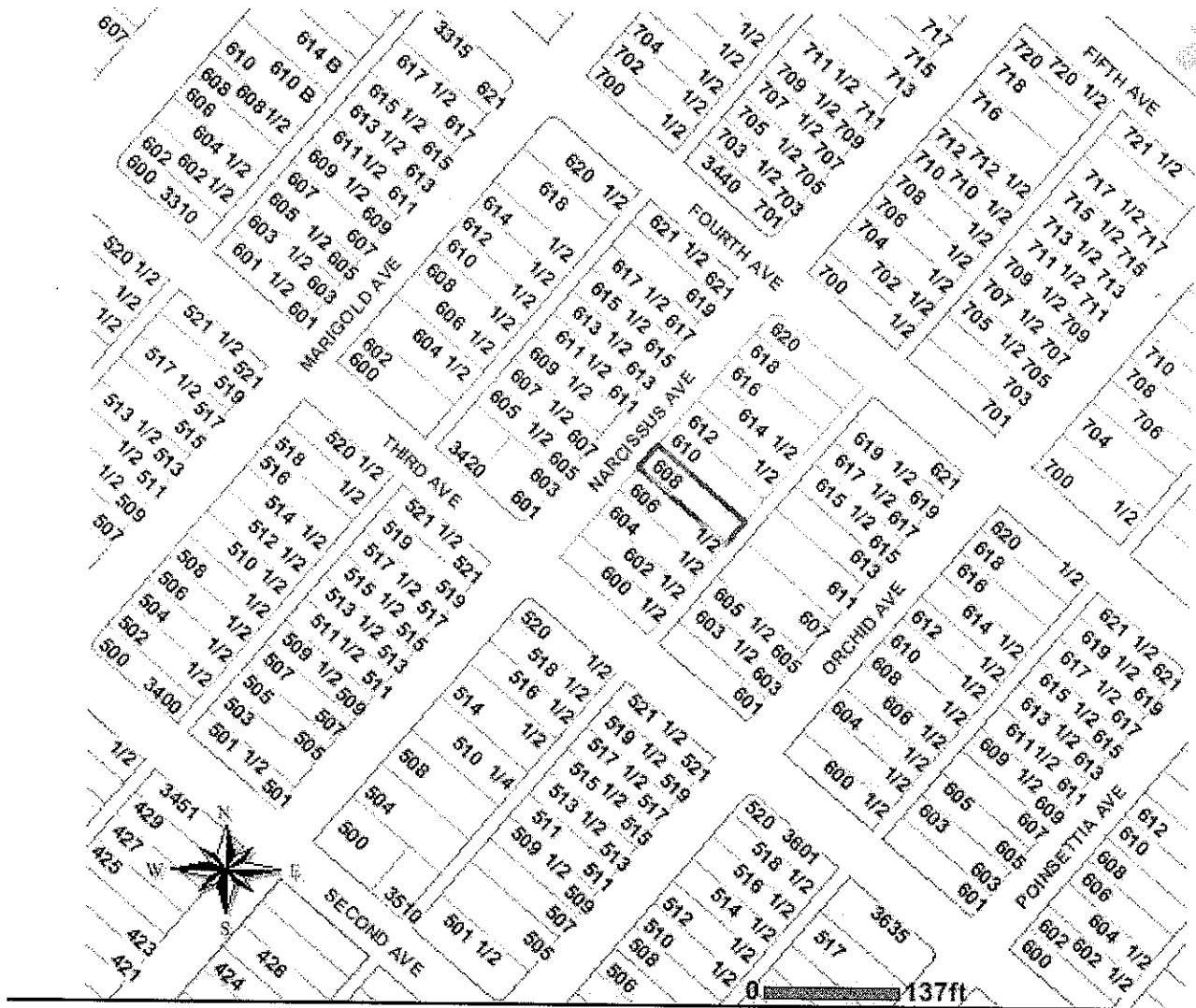
JSG:ks/es

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

# VICINITY MAP



Parcel Map No. NP2007-032  
PA2007-236

**608 Narcissus Avenue**

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## MODIFICATION PERMIT NO. MD2007-093

(PA2007-259)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2007-093 (PA2007-259)</b>
<b>Applicant</b>	<b>Dennis and Charyl Assael</b>
<b>Site Address</b>	<b>14 Linda Isle</b>
<b>Legal Description</b>	<b>Lot 14 , Tract 04003</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to permit encroachments of a shoring and caisson system a maximum 1 foot into each required 4-foot side yard setback which will provide support for a new single family dwelling with basement. The property is located in the R-1 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Single-Unit Residential Detached" use. The existing single family residential structure on the subject property will be demolished and the proposed new residential structure is consistent with this designation.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:
  - The Zoning Code allows the encroachment of architectural features such as roof overhangs, brackets, cornices, and eaves to project up to 2 feet 6 inches into any required front or rear yard setback provided that such features shall not project any closer than 2 feet from side property lines but

does not have any such provisions for below grade structural encroachments.

- The proposed encroachments of caissons and steel shoring 1-foot into the required 4-foot side yard setbacks are to support the structural foundations for the proposed new dwelling and basement due to the existing waterfront conditions at the site which is located on Linda Isle adjacent to the Newport Channel.
4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
- The subject property is located along Newport Channel and requires a foundation system sensitive to the waterfront conditions to include secure waterproofing systems and caissons with steel shoring to support a proposed new dwelling that contains a below grade basement.
  - The proposed encroachments into the side yard setbacks are reasonable design solutions given the development constraints due to waterfront geological conditions of the subject property.
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reasons:
- Granting the request to encroach into the required side yard setbacks of the subject property with caissons and steel shoring is similar and consistent with modified and conditioned approvals granted by the Zoning Administrator and the Modifications Committee throughout the City.
  - The new development will maintain all required setbacks above grade.
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
- The proposed encroachments of caissons with steel shoring encroachments are below grade encroachments that are out of public view and will not be visible upon completion of the development.
  - The proposed encroachments of caissons with steel shoring support a functional foundation system including secure waterproofing and will meet Building Department requirements necessary to support developments that will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and will not be detrimental to

the general welfare or injurious to property or improvements in the neighborhood.

- All above grade required setbacks for the development site will remain clear of structural encroachments.

### CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. The caisson and steel shoring for the development shall maintain a minimum setback of 3 feet to the side property lines measured from the face of the laggings (vertical face).
6. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
7. A building permit shall be obtained prior to commencement of the construction.
8. The proposed shoring design and structural drawings shall be revised so the maximum encroachment into the required 4-foot side yard setbacks are limited to 1-foot, which may require that the basement be redesigned.
9. The proposed shoring and caisson system shall not impact public utilities located on Linda Isle.
10. Dewater system shall meet current water quality standards.

11. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
12. Coastal Commission approval shall be obtained prior to issuance of the building permits and a copy of the approval letter from Coastal Commission shall be incorporated into the Building Department and field sets of plans.
13. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
14. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

#### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:mg/es

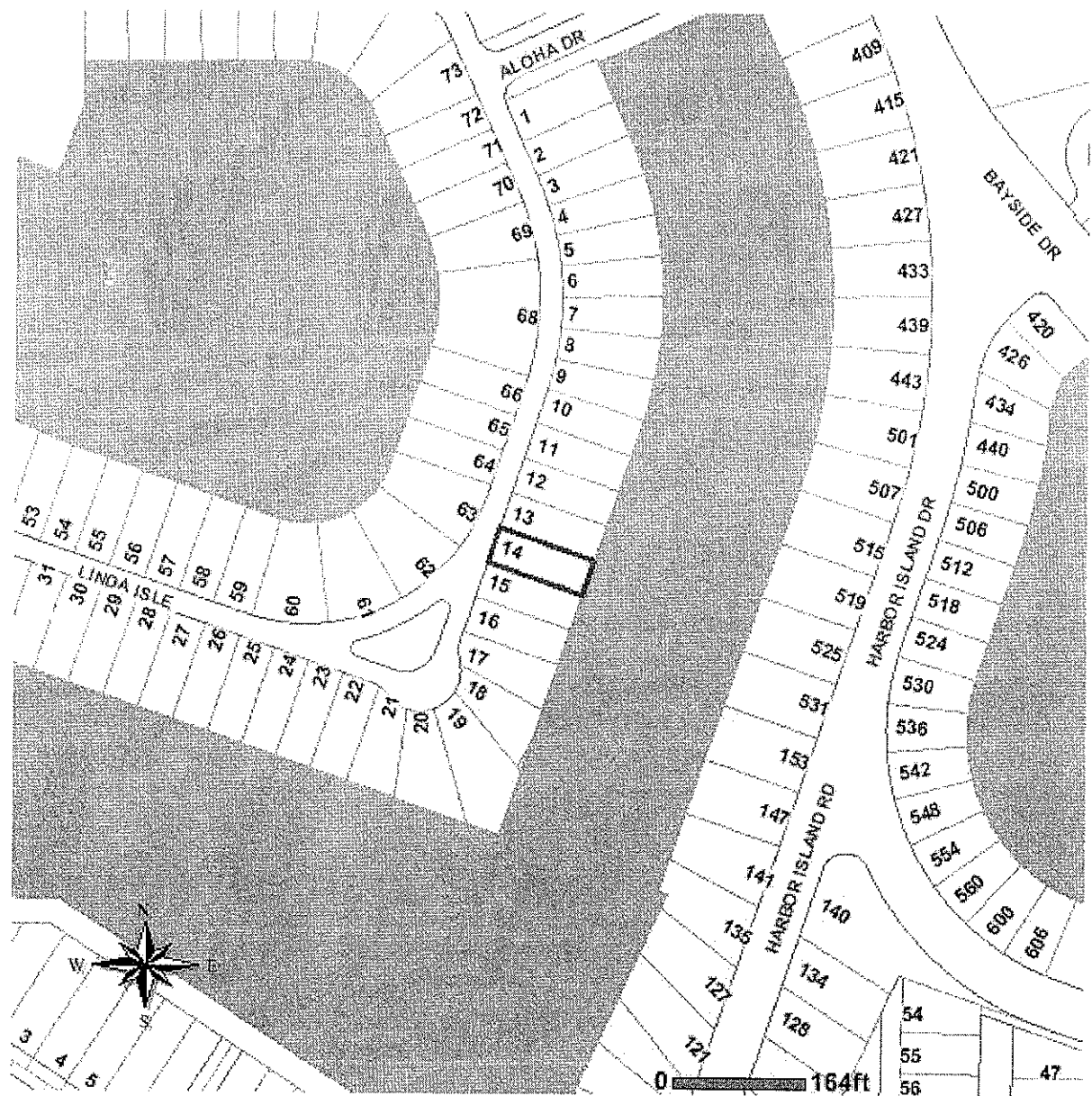
Attachments: Vicinity Map  
Structural Revisions

Appeared in Opposition: None

Appeared in Support: None



# VICINITY MAP

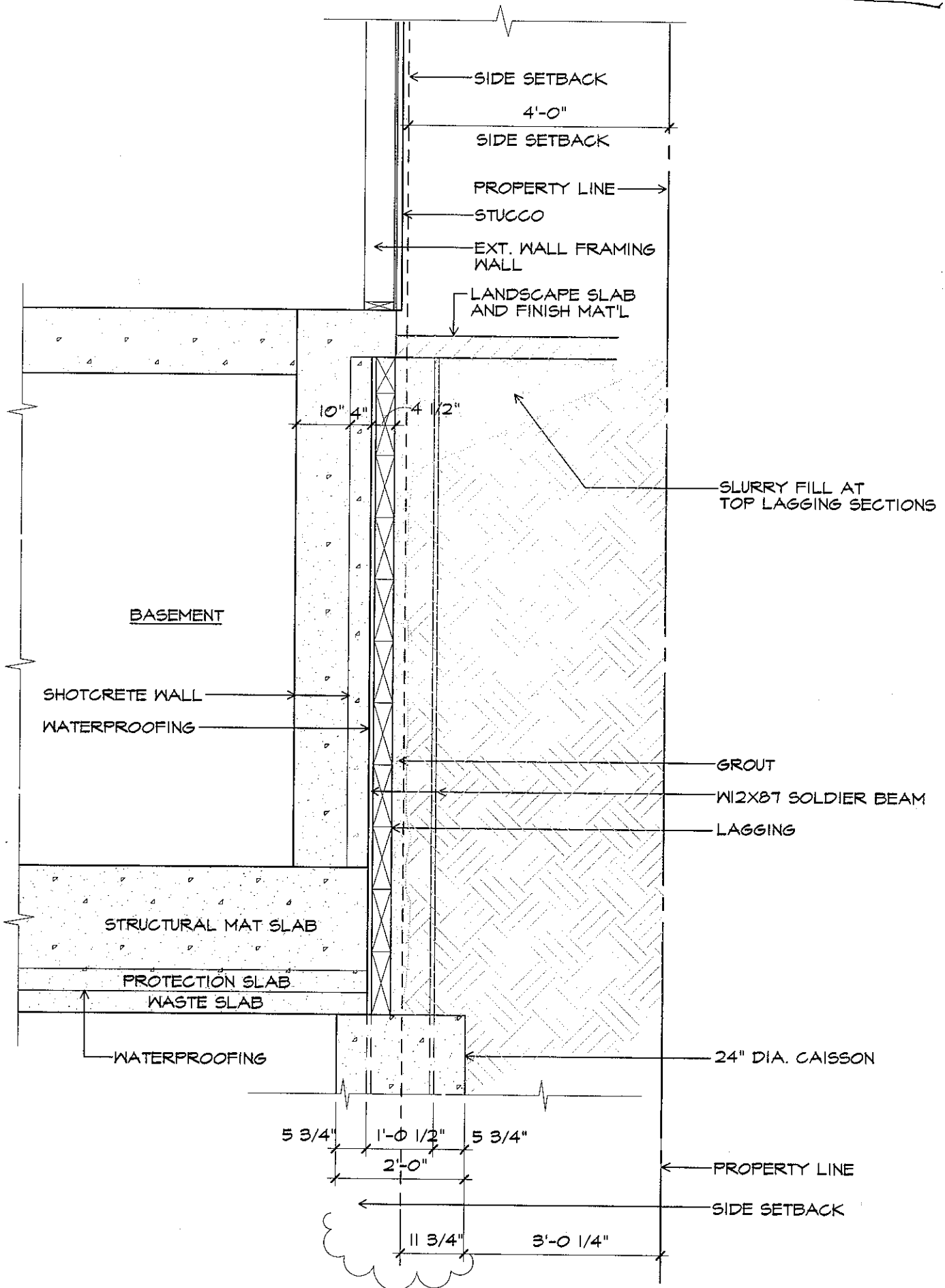


Modification Permit No. MD2007-093  
PA2007-259

**14 Linda Isle**

14 Linda Isle

Side Basement  
Wall detail - REVISED





## MODIFICATION PERMIT NO. MD2008-001

(PA2008-002)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

Application No.	Modification Permit No. MD2008-001 (PA2008-002)
Applicant	Erin Dickerson
Site Address	2 Ironwood Drive
Legal Description	Lot 4, Tract 15390

On **February 14, 2008**, the Zoning Administrator approved the application request to permit an exterior, freestanding barbeque and entertainment center that encroaches 5 feet into the required 10-foot rear yard setback. The property is located in the PC-24 (Aeronutronic Ford) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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### FINDINGS

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Single-Unit Residential Detached" use. The existing residential structure is consistent with this designation. The proposed barbeque is accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reason:
  - The barbeque is an accessory structure commonly located on residential properties. The Aeronutronic Ford Planned Community District Regulations allow fences and walls to be located within a side or rear yard setback limited to a maximum height of 8 feet. However, for fireplace regulations, the Planned Community Text refers to the Municipal Code which makes no such provision for accessory structures such as fireplaces. When uncertainty exists regarding the interpretation of any provision of this code or its application to a specific site, the Planning Director determines the intent of the provision. In this case, the Planning Director determined that

exterior freestanding fireplaces and barbeques are not permitted in the setback unless a Modification Permit has been granted.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
  - The practical difficulties of locating the barbecue structures within the required setbacks would place the structures in the middle of the yard, in this particular case. The backyard of the subject property is about 20 feet deep so it is difficult to site the proposed structures within the required setbacks and still provide useable yard. It is staff's determination that such placement is not the intent of the setback requirements of the Aeronutronic Ford Planned Community District Regulations.
  - The subject property has an existing, previously permitted spa and exterior fireplace within the rear yard setback. The existing fireplace encroaches 7 feet into the 10-foot rear yard setback. The location of these existing structures limits the potential location for the proposed fireplace.
  - The placement of the structure to comply with the required rear setback requirement would result in a physical hardship that limits the use of the rear yard space.
  
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
  - The granting of a 5-foot encroachment into the required 10-foot rear yard setback for a freestanding barbecue is consistent with the modified and conditioned approvals granted by the Modifications Committee and the Planning Commission on appeal for encroachments of similar structures and in this neighborhood and Citywide.
  
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
  - As conditioned, the barbecue will be gas-burning only. The prohibition to burn smoke-generating combustible material will mitigate any detrimental or negative effects to persons, property or improvements in the neighborhood.
  - Unlike accessory outdoor fireplaces, barbecues are typically used for shorter durations of time; thereby minimizing any detrimental effects to persons residing in the adjoining residential properties.

- The barbeque, which is 48 inches in height, will encroach 5 feet into the required 10-foot rear yard setback.
7. The proposed barbeque will not affect the flow of air or light to adjoining residential properties because:
- The barbeque maintains all other setbacks, a maximum of 48 inches in height and is located in the rear yard setback which is well below the elevation of the existing 6-foot high fence.
  - The rear of the subject property abuts the rear and side yards of the adjacent properties and is separated from them by an existing 6-foot high fence. The proposed location of the barbeque will ensure adequate light, air, and open space for the adjoining residential properties.
8. The proposed barbeque will not obstruct public views from adjacent public roadways or parks because:
- There are no public views through or across the subject property that are affected by the proposed project.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

6. The barbeque shall be located in the north easterly portion of the subject property as depicted on the plans submitted with the application and shall not exceed 48-inches in height. The barbeque shall maintain a minimum setback of 5 feet measured from the face of the rear property line to the face of the structure.
7. A building, plumbing, and electrical permit shall be obtained prior to commencement of the construction.
8. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
9. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
10. The 5 foot utilities easement along the front setback shall be included on the site plan.
11. No permanent structures are permitted within the utility easement area.
12. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:mn/es

Attachments: Vicinity Map  
Appeared in Opposition: None  
Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-001  
PA2008-002

**2 Ironwood Drive**

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## MODIFICATION PERMIT NO. MD2008-002

(PA2008-003)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-002 (PA2008-003)</b>
<b>Applicant</b>	<b>Todd L Leigh</b>
<b>Site Address</b>	<b>4 Ironwood Drive</b>
<b>Legal Description</b>	<b>Lot 5, Tract 15390</b>

On February 14, 2008, the Zoning Administrator approved the application request to permit a fireplace to encroach 2 feet into the 5-foot side yard setback. The property is located in the PC-24 (Aeronutronic Ford) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

---

### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Single-Unit Residential Detached" use. The existing residential structure is consistent with this designation. The proposed freestanding fireplace is accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reason:
  - The freestanding fireplace is an accessory structure commonly located on residential properties. The Aeronutronic Ford Planned Community District Regulations allow fences and walls to be located within a side or rear yard setback limited to a maximum height of 8 feet. However, for fireplace regulations, the Planned Community Text refers to the Municipal which makes no such provision for accessory structures such as fireplaces. When uncertainty exists regarding the interpretation of any provision of this code or its application to a specific site, the Planning Director determines the intent of the provision. In this case, the Planning Director determined that

exterior freestanding fireplaces and barbeques are not permitted in the setback unless a Modification Permit has been granted.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
  - The practical difficulties of locating the freestanding fireplace within the required setbacks would place the structures in the middle of the yard, in this particular case. The backyard of the subject property is 16-35 feet deep so it is difficult to site the proposed structures within the required setbacks and still provide useable yard.
  - It is staff's determination that such placement is not the intent of the Aeronutronic Ford Planned Community District Regulations for setback requirements for fireplaces and chimneys.
  - The subject property has an existing, previously permitted spa, patio cover, and barbeque in the backyard area. The existing barbeque encroaches 2 feet into the 10-foot rear yard setback. The existing patio cover encroaches 2 feet into the 10-foot rear yard setback. The location of these existing structures limits the potential location for the proposed fireplace.
  - The placement of the structure to comply with the required rear setback would result in a physical hardship that limits the use of the rear yard space.
  
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
  - The granting of a 2-foot encroachment in the required 5-foot side yard setback with the freestanding fireplace is consistent with the modified and conditioned approvals granted by the Modifications Committee and the Planning Commission on appeal for encroachments of similar structures and in this neighborhood and Citywide.
  
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
  - As conditioned, the fireplace will be gas-burning only. The prohibition to burn smoke-generating combustible material will mitigate any detrimental or negative effects to persons, property or improvements in the neighborhood.
  - The fireplace, which is 8 feet in height, will encroach 2 feet into the required 5-foot side yard setback.

7. The proposed freestanding fireplace will not affect the flow of air or light to adjoining residential properties because:
  - The fireplace maintains all other setbacks and a maximum of 8 feet in height which is the maximum permitted fence height in the Aeronutronic Ford Planned Community.
  - The rear of the subject property abuts the side yard of a community center and is separated from them by an existing 7-foot high wall. The proposed location and height of the fireplace will ensure adequate light, air, and open space for the adjoining residential properties.
8. The proposed fireplace will not obstruct public views from adjacent public roadways or parks because:
  - There are no public views through or across the subject property that are affected by the proposed project.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

6. The freestanding fireplace shall be located in the south easterly portion of the subject property as depicted on the plans submitted with the application and shall not exceed 8 feet in height. The fireplace shall maintain a minimum setback of 3 feet clear measured from the face of the side property line to the face of the structure.
7. The freestanding fireplace shall be restricted to gas-burning only. The burning of wood or any smoke-producing combustible product is strictly prohibited.
8. A building permit shall be obtained prior to commencement of the construction.
9. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
10. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
11. The 5 foot utilities easement along the front setback shall be included on the site plan.
12. No permanent structures are permitted within the easement area.
13. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:mn/es

Attachments: Vicinity Map  
Appeared in Opposition: None  
Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-002  
PA2008-003

**4 Ironwood Drive**

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## **MODIFICATION PERMIT NO. MD2008-003**

(PA2008-004)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-003 (PA2008-004)</b>
<b>Applicant</b>	<b>Todd Schooler</b>
<b>Site Address</b>	<b>1414 West Ocean Front</b>
<b>Legal Description</b>	<b>Lot 8, Block 14, Tract 00234</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to permit encroachment of an entry arch and gate 3 feet into the required 3-foot side yard setback. The entry arch and gate will have a height range between 7 feet to 9 feet and will provide a defined entry to a new single family dwelling that is adjacent to the ocean front. The property is located in the R-2 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

---

### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The subject lot has an existing single family structure that is proposed to be demolished and developed with a new single family structure which is consistent with this designation. The proposed entry arch and gate are accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reason:
  - The Zoning Code allows walls, fences and similar structures such as gates to be a maximum height of 6 feet measured from natural grade within side and rear yard setbacks.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
  - The subject property contains an existing single family dwelling that is proposed to be demolished and replaced with a new single family dwelling. The lot is located on West Ocean Front with a front yard adjacent to the public beach and the rear of the property adjacent to Ocean Front Alley West. The Ocean Front Alley West provides access for parking to the garage of the proposed single family dwelling. The proposed entry arch and gate are to provide a defined entry for the proposed single family dwelling from the side yard.
  - The subject property has a required front yard setback of 10 feet that is along West Ocean Front and a zero rear yard setback adjacent to a 20-foot wide alley. The proposed entry arch and gate will have a height range of 7 to 9 feet tall and are proposed to be oriented towards the rear half of the subject lot towards the alley where there is a zero lot line. The entry arch and gate will provide privacy for the subject properties useable side yard from the adjacent alley that is used as access for vehicles and pedestrians to the beachfront homes and the public beach along West Ocean Front.
  - The proposed entry arch and gate will encroach 3 feet into the required 3-foot westerly side yard setback. It will be on the rear half of the lot approximately 16 feet from the zero rear lot line adjacent to the 20-foot wide alley.
  
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
  - Granting the request to exceed the height limit of walls within the side yard setback by allowing the construction of the entry arch and gate is consistent with modified and conditioned approvals granted by the Modifications Committee within the neighborhood and throughout the City.
  
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
  - The proposed project provides a defined entry for the new single family dwelling and is consistent with the Residential Design Criteria required by the City.



- The proposed entry arch and gate will meet all Building Department safety requirements for the structure to be constructed 3 feet into the required 3-foot side yard setback adjacent to the westerly neighbor.
- The proposed new single family dwelling and all other accessory structures proposed on the subject property will meet Zoning Code requirements.

### CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
6. The plans shall include details to show the width dimension of the entry arch and gate and prior to issuance of building permits, the applicant shall submit to the Planning Department an 8 1/2 by 11 inch copy of those details to be included in the Modification Permit file.
7. A building permit shall be obtained prior to commencement of the construction.
8. The entry arch and gate shall be constructed to be noncombustible or 1 hour rated assembly.

9. The maximum height of the entry arch and gate within the sideyard setback shall not exceed 9-feet measured from existing/natural grade and shall provide a minimum 3-foot wide access through the gate.
10. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
11. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
12. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

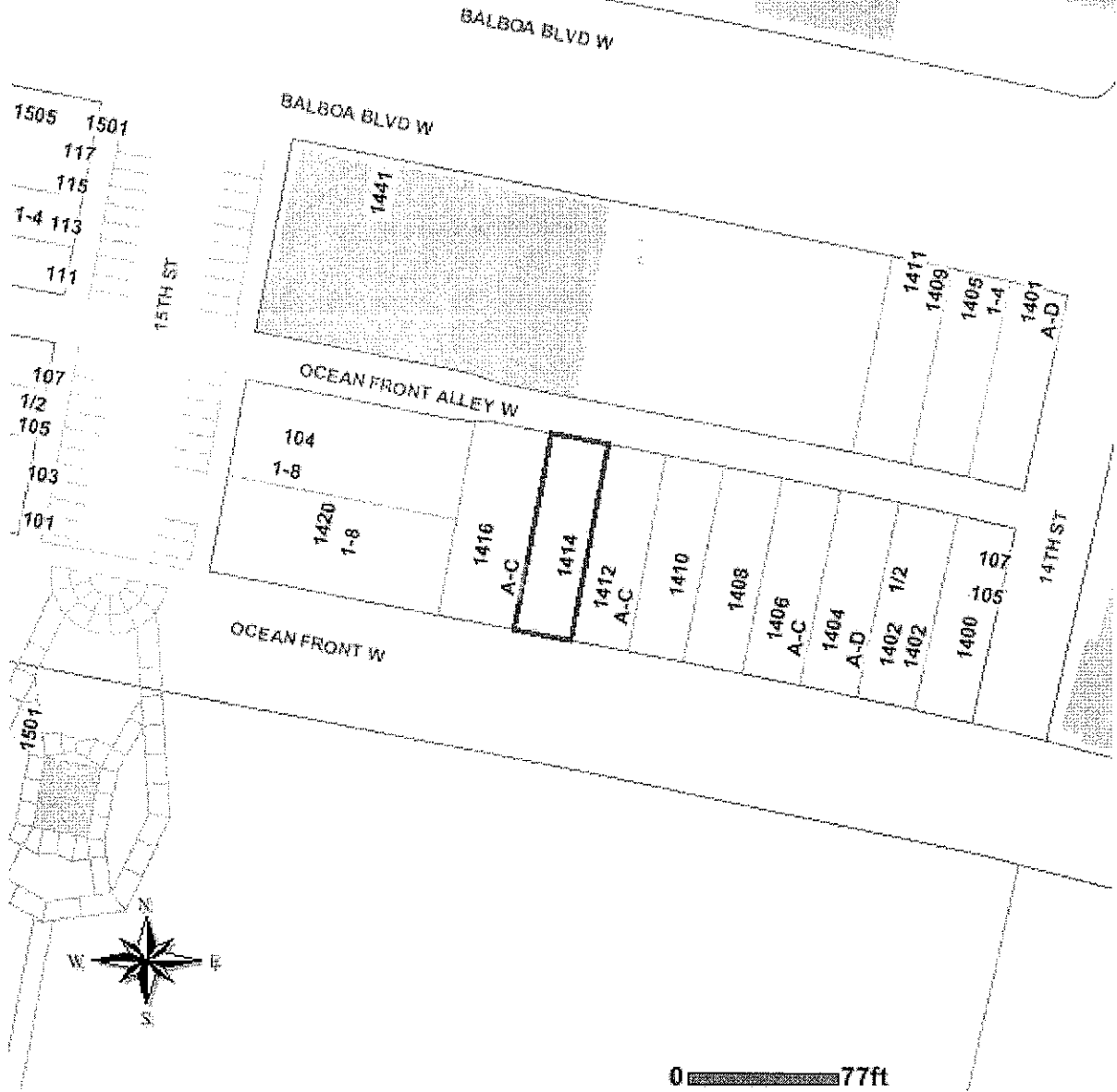
JSG:mg/es

Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-003  
PA2008-004

## 1414 West Ocean Front

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## **MODIFICATION PERMIT NO. MD2008-004**

(PA2008-005)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-004 (PA2008-005)</b>
<b>Applicant</b>	<b>Darlene La Combe</b>
<b>Site Address</b>	<b>2830 Bayview Drive</b>
<b>Legal Description</b>	<b>Southeasterly 59 feet of Lots 1, 3, 5, and 7, Resubdivision of Corona Del Mar, Block 134 except Northeasterly 10 feet, Lot 7 Tract 648</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to permit a maximum 6-foot 4-inch encroachment into the required 10-foot rear yard setback with the following elements of an addition to an existing, one-story garage: spiral stair from the second floor to a third floor deck, related landing and tempered glass guardrail at the second floor required for the spiral stair to the third floor deck, and a portion of the third floor deck and tempered glass guardrail. The existing garage is non-conforming because it encroaches 6 feet 4 inches into the required 10-foot rear yard setback. The property is located in the R-1 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

---

### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Single-Unit Residential Detached" use. The existing residential structure and separate garage is consistent with this designation. The proposed spiral staircase, landing, deck and tempered glass guardrails are accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The Zoning Code allows encroachment of roof overhangs, brackets, cornices, eaves, and decorative architectural features into required setbacks, but does not include any provision for stairs, related landings, decks, and tempered glass guardrails at the second and third floor levels.
  - The existing structures were constructed on the lot oriented toward Heliotrope as the front of the property.
  - The proposed encroachments into the required 4-foot side yard setback consist of elements which are non-habitable space and are open in nature.
  - The proposed addition of habitable space will comply with the current Zoning Code standards.
4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
- The subject property is a corner lot located at the intersection of Bayview Drive and Heliotrope. It is a re-oriented, reverse corner lot with default setbacks required of properties located in the R-1 District. The required 20-foot front yard setback is adjacent to Bayview Drive and the required 4-foot side yard setback is adjacent to Heliotrope. Additionally, the required 20-foot by 20-foot reverse corner setback is located at the rear of the property along Heliotrope.
  - The existing single-family dwelling and detached garage are non-conforming and were constructed oriented with Heliotrope as the front of the property. Applying the current Zoning Code standards, the garage encroaches into the required 10-foot rear yard setback 6 feet 4 inches.
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reasons:
- The proposed addition of second floor habitable space will comply with the required 10-foot rear yard setback.
  - The 3-foot 8-inch, non-conforming rear yard setback of the existing garage is similar to the required 4-foot side yard of the adjacent property.
  - The 20-foot setback required of all other properties fronting Heliotrope is maintained by the existing garage and proposed addition.
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:

- The second floor addition of habitable space will comply with the required 10-foot rear yard setback.
- The addition will maintain the footprint of the existing garage at the rear of the structure along the side yard which is greater than the 4-foot setback required.
- The spiral stair from the second floor to the third floor deck, the landing and tempered glass guardrail required for the spiral stair at the second floor, and a portion of the tempered glass guardrail and deck at the third floor will not extend beyond the encroachment of the existing garage and are open in nature.
- The proposed addition to the garage of the subject property will result in a structure that is aesthetically pleasing and will comply with the Residential Design Criteria requirements of the General Plan.
- The property will remain a single-family residence and will maintain two enclosed parking spaces within the existing garage.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. The proposed spiral stair from the second floor to third floor deck, related landing and tempered glass guardrail at the second floor required for the spiral stair to the third floor deck, and a portion of the third floor deck and tempered glass guardrail may encroach a maximum 6-feet 4-inches into the required 10-foot rear yard setback.
4. The guardrail on the third floor deck encroaching into the required 10-foot rear yard setback shall be a minimum height of 42 inches from the deck surface and shall be constructed of a solid or opaque material.
5. The proposed second floor addition of habitable space shall comply with the required 10-foot rear yard and 4-foot side yard setbacks.
6. The glass panes in the windows located on the second floor facing the rear yard setback shall be removed unless otherwise constructed with a frosted glass or similar material which will allow light into the structure while providing privacy for the neighboring property.

7. The existing garage shall maintain two parking spaces which meet the standards for length and width required by the Zoning Code. The parking spaces shall be maintained clear of obstructions for the parking of vehicles at all times.
8. One single-family dwelling unit shall be allowed on the property. A "Covenant and Agreement to hold property as a single family dwelling site" shall be completed and recorded with the County prior to final of the building permit for construction of the proposed addition.
9. An application of a Certificate of Compliance shall be filed with the Planning Department to combine the portions of lots of the property into a single property. If a Certificate of Compliance cannot be granted, the applicant shall record a parcel map to combine the portions of lots into a single parcel of land, prior to issuance of building permits. Please see appendix below.
10. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
11. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
12. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
13. A building permit shall be obtained prior to commencement of the construction.
14. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
15. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
16. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in



accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

**APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:ks/es

Attachments: Vicinity Map

Appeared in Opposition: Seth Christian

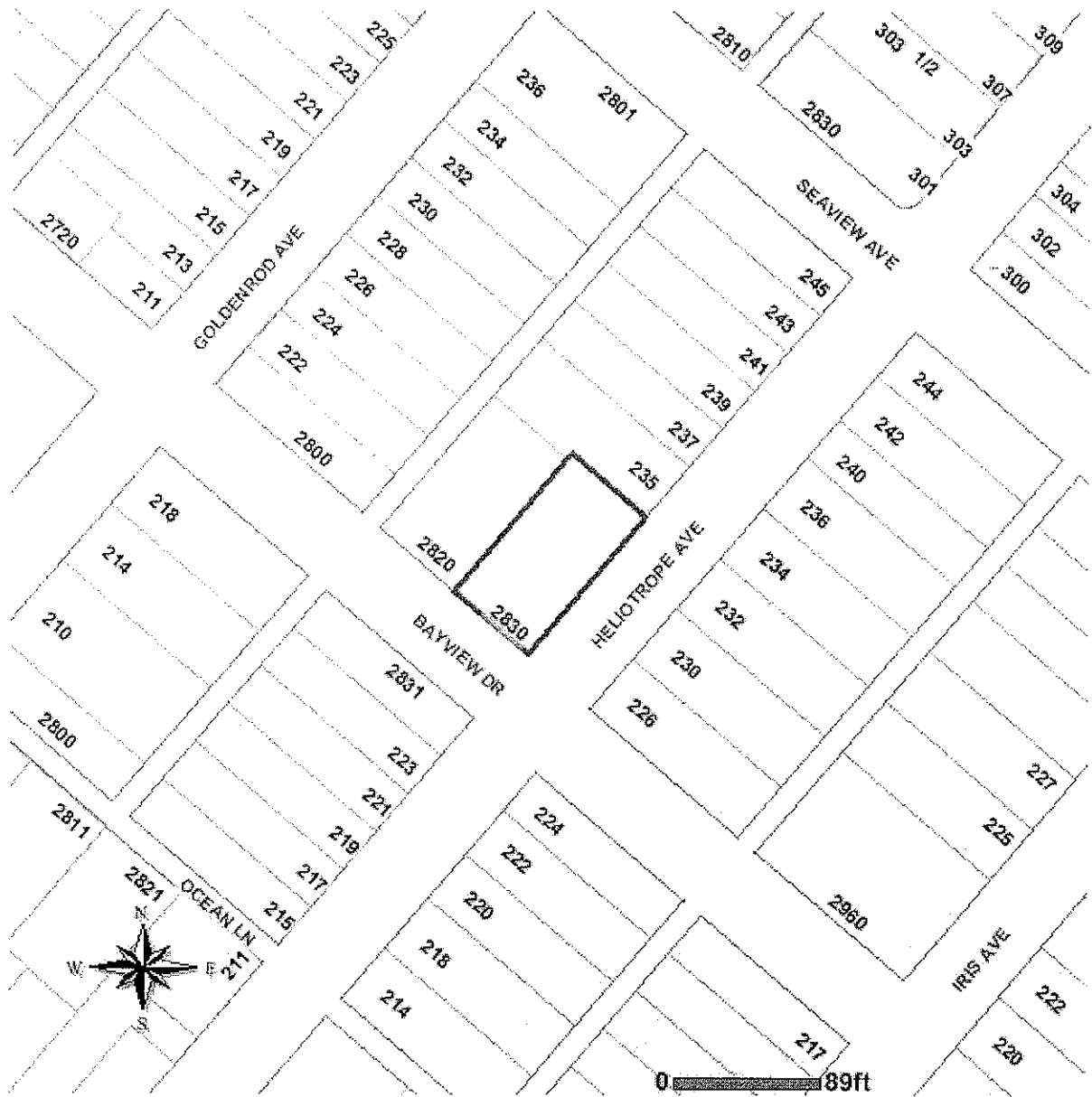
Appeared in Support: None

**APPENDIX PARAGRAPH:**

**Title 19 Compliance**

The Subdivision Code Section 19.68.040 provides that no new construction or building alteration of value greater than \$27,604.00 shall be permitted on a portion of a lot adjacent to a portion of a lot held by the same owner if any one of the contiguous lots held by the same owner does not conform to standards for minimum lot size under Title 20 (Zoning Code) until a Certificate of Compliance is approved. If the requirements for a Certificate of Compliance cannot be met, a parcel map shall be required to combine the portions of lots into a single parcel of land for the proposed development.

# VICINITY MAP



Modification Permit No. MD2008-004  
PA2008-005

**2830 Bayview Drive**



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## **MODIFICATION PERMIT NO. MD2008-005**

(PA2008-006)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-005 (PA2008-006)</b>
<b>Applicant</b>	<b>Darlene LaCombe</b>
<b>Site Address</b>	<b>505 and 505 ½ Marguerite Avenue</b>
<b>Legal Description</b>	<b>Corona Del Mar, Block 538, Lot 5</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to allow the separation of an existing two-car garage into two, single-car garage spaces, each of which will have a clear interior width of 8 feet 9 inches where the Zoning Code requires a minimum 9 feet 3 inches. Both parking spaces will meet the Zoning Code required minimum clear interior depth of 19 feet. The property is located in the R-2 District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

---

### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Two-Unit Residential" use. The existing duplex structure is consistent with this designation.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:
  - Separation of the existing garage is a condition of approval of the Condominium Conversion Permit application submitted for the subject property. The purpose of the separation is to provide each condominium with a secure, independently accessible garage parking space. In this case, garage separation results in parking spaces that do not meet the code

required 9-foot 3-inch width dimension. Strict application of the Zoning Code would prohibit the garage separation.

- The width of the proposed garage parking spaces is adequate to accommodate vehicles.
- Per conditions of the approved Parcel Map (PA2004-110 NP2004-013) and Condominium Conversion (CC2004-006), each condominium will retain one garage parking space, a third uncovered parking space will be provided to the larger dwelling unit. This is equivalent to the number currently existing on the subject property.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:

- Creation of two single-car garage spaces requires the installation of a partition wall to divide the existing two-car garage. The size of the existing garage precludes the provision of side-by-side garage spaces that meet the minimum width requirements of the Zoning Code.
- Due to the size of the existing two-car garage, this modification is necessary to provide each future condominium with a secure, independently accessible garage parking space.
- The reduced interior dimension of the proposed single-car garage spaces is a reasonable solution given the width of the existing two-car garage.
- In this case, the benefit of having independently accessible single-car garages for each unit outweighs the impact created by losing a maximum of 6 inches of usable parking width per garage space.

5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reasons:

- There will be no visible change to the exterior of the structure because the partition wall is constructed within the interior of the garage only.
- The existing number of usable parking spaces will remain on the subject property.

6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:

- The overall size of the building will not be affected.
- The width of the proposed single-car garage spaces is adequate to accommodate vehicles.

- Each condominium unit will be provided with the number of parking spaces required at the time of the original Parcel Map and Condominium Conversion approvals.

### CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. Each single-car garage parking space shall be a minimum 8 feet 9 inches in width. The separation wall shall be constructed with the studs turned "flat" to maximize the width of the garage space.
4. The two single-car garage spaces and third uncovered parking space shall be maintained clear and accessible for the parking of vehicles at all times.
5. The third uncovered parking space shall be allocated to the larger unit and shall be maintained clear of obstructions for the parking of vehicles at all times.
6. Any above ground encroachments into the required rear yard setback shall be removed.
7. Site drainage at the rear of the property shall be retrofitted to comply with current water quality standards.
8. All non-standard encroachments into the public right-of-way require an encroachment permit and encroachment agreement, if applicable.
9. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
10. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
11. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-

inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

12. A building permit shall be obtained prior to commencement of the construction.
13. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
14. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
15. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

#### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:ks/es

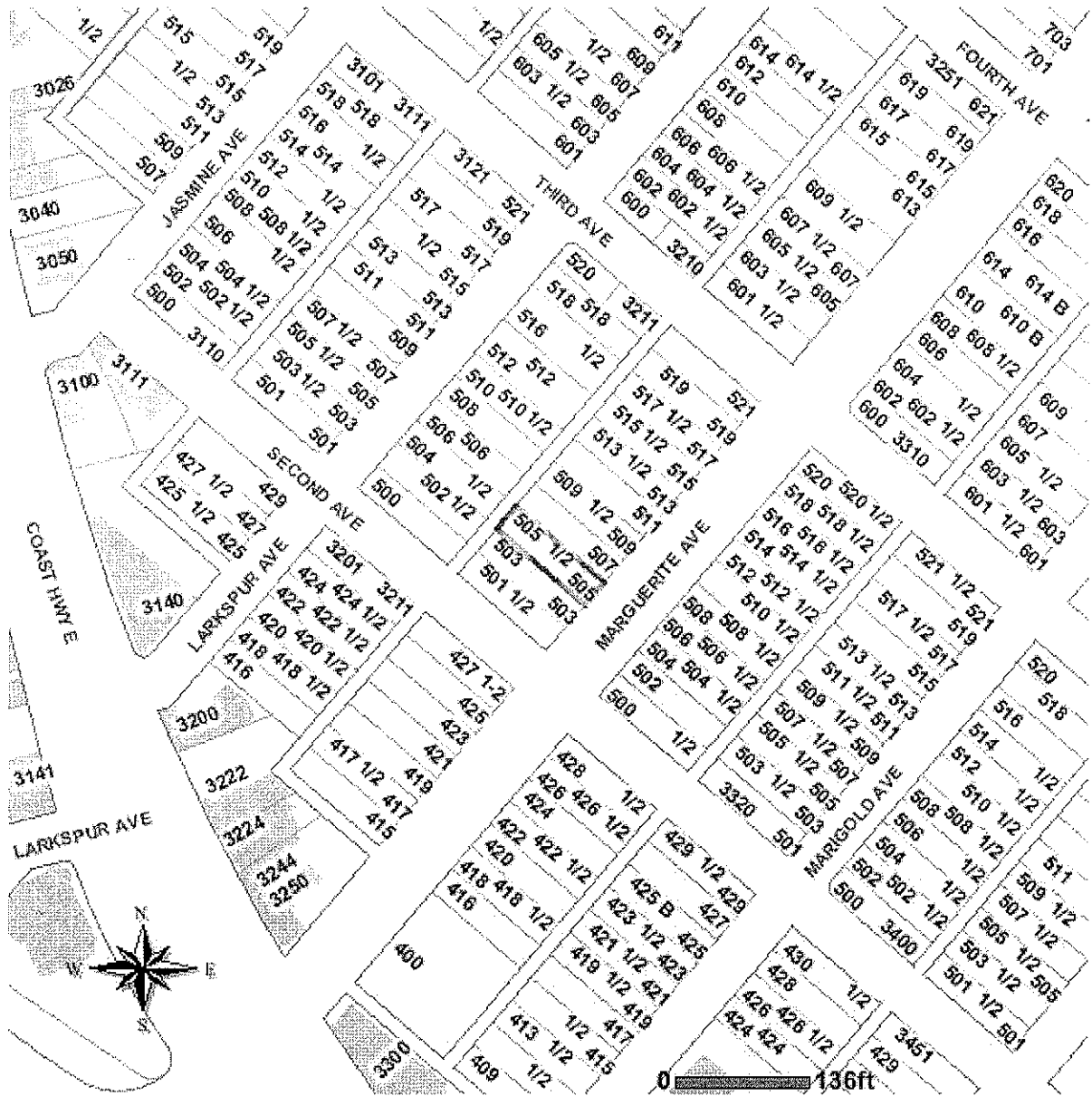
Attachments: Vicinity Map

Appeared in Opposition: None

Appeared in Support: None



# VICINITY MAP



Modification Permit No. MD2008-005  
PA2008-006

## 505 and 505 1/2 Marguerite Avenue

February 14, 2008

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Page 5

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## **MODIFICATION PERMIT NO. MD2008-006**

(PA2008-007)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-006 (PA2008-007)</b>
<b>Applicant</b>	<b>Architectural Design and Signs</b>
<b>Site Address</b>	<b>100 Bayview Circle</b>
<b>Legal Description</b>	<b>Lot 2, Tract 12528</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to permit one, illuminated, channel letter sign on the exterior face of a commercial office building that exceeds the 4-foot maximum height limit by 1 foot 9 inches. The program was approved to allow the logo with maximum vertical dimension of 6 feet, test/copy with maximum height of 4 feet and overall maximum area of 162 square feet. Additionally, a condition of approval was included requiring the illumination to be turned off between the hours of 10 PM and 7 AM. The property is located in the PC-32 (Bayview Planned Community) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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### **FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "General Commercial Office" use. The existing commercial structure is consistent with this designation. The proposed sign is accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The subject property is developed with a multi-story office building at the intersection of Bayview Circle and Bristol Street, and Bayview Place and Bayview Circle. The commercial building consists of one building with over 400 feet of street frontage on Bristol St., over 400 feet on Bayview Place and over 450 feet along Bayview Circle. The wall sign identifies a major tenant in the office building and was previously authorized through a sign program by Modification Permit No. 3779 approved in 1990.
  - The proposed signage is a change to the previously approved sign program permitting an increase in logo height to a maximum of 6 feet, with a maximum area of 162 square feet. The maximum letter height is 4 feet.
4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
- The increase in the vertical logo dimension provides more latitude to accommodate future sign changes. Only the logo exceeds the height limit for letters in order to maintain proportion with the sign text.
  - The large size of the office building and the location of the development at the corner of two intersections makes the identification of the tenant of the building difficult without allowing for the additional sign height to maintain proportion with the text.
  - The size of the sign will not be abruptly out of scale with the size of the building elevation.
  - The maximum vertical dimensions for logo or letters allows for variation for the horizontal dimension within the maximum sign area of 162 square feet.
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reasons:
- The approved sign program is similar to the one approved at the neighboring property, 3501 Jamboree Road. This sign program, approved through Modification Permit 4759, permits maximum dimensions of 4 feet by 41 feet and a maximum sign area of 164 square feet.
  - The project is located within a commercial district and signage is commonly seen within a commercial district.
  - The limitation of hours on the illumination will limit the impact on the neighboring residential uses.
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:

- Adequate signage and tenant identification will improve traffic circulation by providing greater visibility to patrons trying to locate the tenant of the freestanding building.

### CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. The proposed wall sign (logo only) shall identify the tenant of the freestanding building located at 100 Bayview Circle, measure maximum of 6 feet and all text/letters will comply with the 4 feet maximum height standard of the approved Comprehensive Sign Program (CS2007-001).
3. The wall sign shall not exceed 162 square feet in overall area, as measured by two sets of parallel lines perpendicular to each other.
4. The illumination of the wall sign shall be controlled by a timer, which turns of the illumination between the hours of 10 PM and 7 AM daily.
5. Future replacement of the wall signs approved by this application shall conform to the maximum letter height of 4 feet and maximum logo height of 6 feet and shall be removed and replaced within the authorization period specified by the Sign Ordinance Chapter 20.67 of the NBMC.
6. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
7. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
8. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
9. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this

Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

10. A building and electrical permit shall be obtained prior to commencement of the construction.
11. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
12. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
13. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.
14. Sign illumination shall be limited until 10:00PM.

#### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
\_\_\_\_\_  
Zoning Administrator Javier S. Garcia, AICP

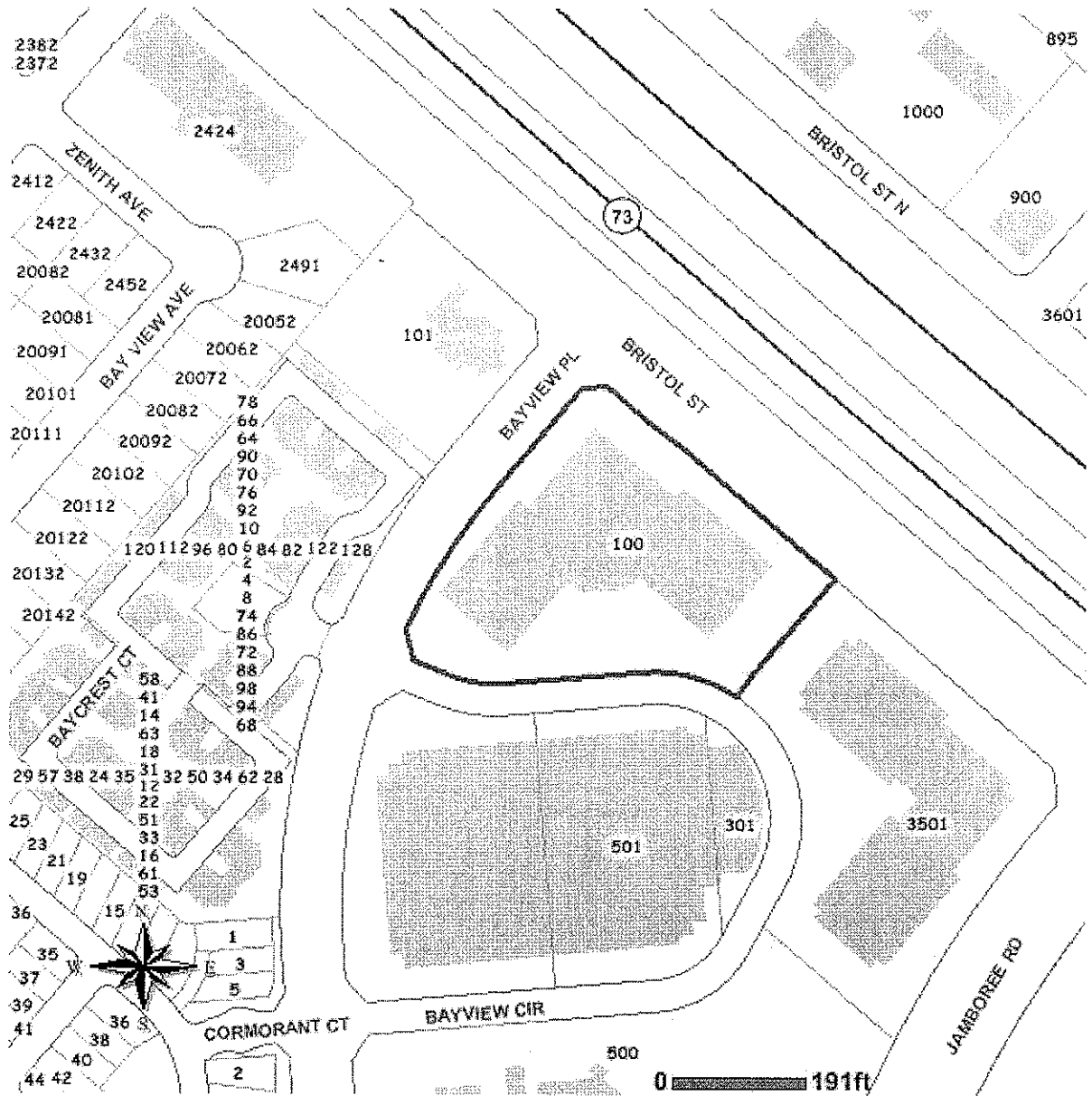
JSG:mn/es

Attachments: Vicinity Map  
Opposition Letter – Mitchell Roye  
Petition of Opposition – Baycrest Court

Appeared in Opposition: Jerry Brooks

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-006  
PA2008-007

**100 Bayview Circle**

**Sims, Kay**

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**From:** Lepo, David  
**Sent:** Monday, February 11, 2008 11:27 AM  
**To:** Garcia, Jay  
**Cc:** Sims, Kay  
**Subject:** FW: Modification Permit No. MD 2008-006 (PA2008-007)

Can we talk about this?

*David Lepo, Director  
Planning Department  
City of Newport Beach  
(949) 644-3228 w (949) 644-3229 f*

---

**From:** Robert C. Hawkins [mailto:rhawkins@earthlink.net]  
**Sent:** Monday, February 11, 2008 11:22 AM  
**To:** Lepo, David  
**Subject:** FW: Modification Permit No. MD 2008-006 (PA2008-007)

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**From:** MD202007 [mailto:md202007@gmail.com]  
**Sent:** Monday, February 11, 2008 9:13 AM  
**To:** jeff.cole@cushwake.com; eaton727@earthlink.net; rhawkins@earthlink.net; bhillgren@cox.net; scott.peotter@taxfighter.com; strataland@earthlink.net  
**Subject:** Modification Permit No. MD 2008-006 (PA2008-007)

Dear Sirs,

I am strongly opposed to granting administrative relief as pertains to Modification Permit No. MD2008-006, wherein Architectural Designs, on behalf of the property owner, The Muller Company, has requested permission to have an illuminated, channel letter sign on the exterior face of their commercial office building that exceeds both the maximum height limit and the square foot sign area. The property is located in the PC-32 Bayview District building, located at 100 Bayview Circle.

I live in Bayview Court, the condominium complex across the street from Bayview Circle. As homeowners, the last thing we need is more pollution from lights in our community. I believe this modification would be an ugly detriment and an additional eyesore to this area.

I hereby request that the Planning Commission and Zoning Administration deny this appeal for signage that does not meet the Zoning Code provisions of Newport Beach.

Sincerely,

Mitchell Roye  
88 Baycrest Court  
Newport Beach, CA 92660







# MODIFICATIONS HEARING

ZONING ADMINISTRATOR JAVIER "JAY" S. GARCIA

HEARING DATE: 2/14/08

Application No: 7A2008-007 (M0208-006) Project Address: 100 Bayview Circle

Name	Address	Telephone	Opposed or Support	Comments
JERRY BRADY	128 BANCROFT CT	(949) 7250900	OPPOSED	



**MODIFICATION PERMIT NO. MD2008-007**  
(PA2008-009)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-007 (PA2008-009)</b>
<b>Applicant</b>	<b>John P. Kenney</b>
<b>Site Address</b>	<b>311 Fernleaf Avenue</b>
<b>Legal Description</b>	<b>Lot 11 &amp; POR 13 OF PROJECT 932-87 LOCATED ON AP052-021-28 TOGETHER WITH AN UND1/3 INT IN LOTS TR186</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to permit the remodel and addition of between 25% and 50% of the existing gross square footage of an existing non-conforming three unit residential condo structure. The proposed additional square footage conforms to all required setbacks. The existing triplex is non-conforming because it encroaches 1 foot into the required 4-foot northwesterly side yard setback and does not provide guest parking required for multi-family dwellings. The condominium conversion was approved prior to changes to parking regulations that required two-car parking per dwelling unit and guest parking. The existing three-unit residential condo structure provides two parking spaces per unit, including five garage spaces, all of which are proposed to remain. The property is located in the MFR (2140) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

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**FINDINGS**

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designate the site for "Multiple-Unit Residential" use. The existing three-unit residential condo structure is consistent with this designation. The proposed addition does not change the use of the structure.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the

property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The existing triplex is nonconforming because it encroaches 1 foot into the required 4-foot northwesterly side yard setback and it does not provide the required one guest parking space for the existing three units.
- Chapter 20.62 of the Zoning Code permits existing legal nonconforming structures to additions that increase up to 25 percent of the existing gross floor area by right.

4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:

- The Zoning Code permits the addition to an existing legal nonconforming structure of up to 50 percent of the gross floor area with the approval of a Modification Permit.
- The Zoning Code permits residential developments having at least two parking spaces per dwelling unit to expand with additional rooms with the approval of a Modification Permit. The code does not specify a limit on the number of rooms that can be added.

5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reasons:

- The proposed gross square footage of the structure is less than the maximum square footage allowed by the Zoning Code for the subject property and is consistent with the surrounding neighborhood as well as similar land uses throughout the City.
- Granting the request of a square footage addition of up to 50 percent of the gross floor area is a suggested option by the Zoning Code and is consistent with modified and conditioned approvals granted by the Zoning Administrator and the Modifications Committee within the neighborhood and throughout the City.

6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:

- The minimum open space requirement of 23,100 cubic feet will be provided within the buildable area of the property.

- The existing three-unit residential condo structure provides two parking spaces per unit including five garage spaces all of which are proposed to remain.
- The addition of 1,235 square feet is an addition to one of the three condo units of the existing triplex and results in a total gross floor area within the maximum limits allowed by the Zoning Code for the subject property.

### CONDITIONS

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
3. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
4. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
5. The applicant shall provide a Geotechnical report to the Public Works Department for review and approval documenting that the proposed project will not add additional load or surcharge on the existing City retaining wall and ensure slope stability on the northeast side of the property along the Fernleaf Avenue ramp. The plans need to show the location of easements and City retaining wall adjacent to the proposed project.
6. All weep holes from the planter wall along Fernleaf Avenue and drains from the patio to the area above the retaining wall shall be removed.
7. The applicant shall provide a drainage plan showing how the site will drain and eliminate additional percolation into the area adjacent to the city retaining wall. The site shall drain to Fernleaf Avenue at the front of the property or the alley.
8. All non-standard encroachments into the public right-of-way require an encroachment permit and encroachment agreement, if applicable, from the Public Works Department.
9. All structure elements shall not encroach into the public right-of-way.

10. The proposed addition and related work shall comply with the California Building Code and all adopted local amendments.
11. Coastal Commission approval shall be obtained prior to issuance of the building permits and a copy of the approval letter from Coastal Commission shall be incorporated into the Building Department and field sets of plans.
12. Prior to issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
13. A building permit shall be obtained prior to commencement of the construction.
14. The additional square footage shall not exceed a 50 percent increase of the existing gross square footage and shall maintain all required setbacks.
15. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
16. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.
17. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

### **APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:   
Zoning Administrator Javier S. Garcia, AICP

JSG:msg/es

Attachments: Vicinity Map

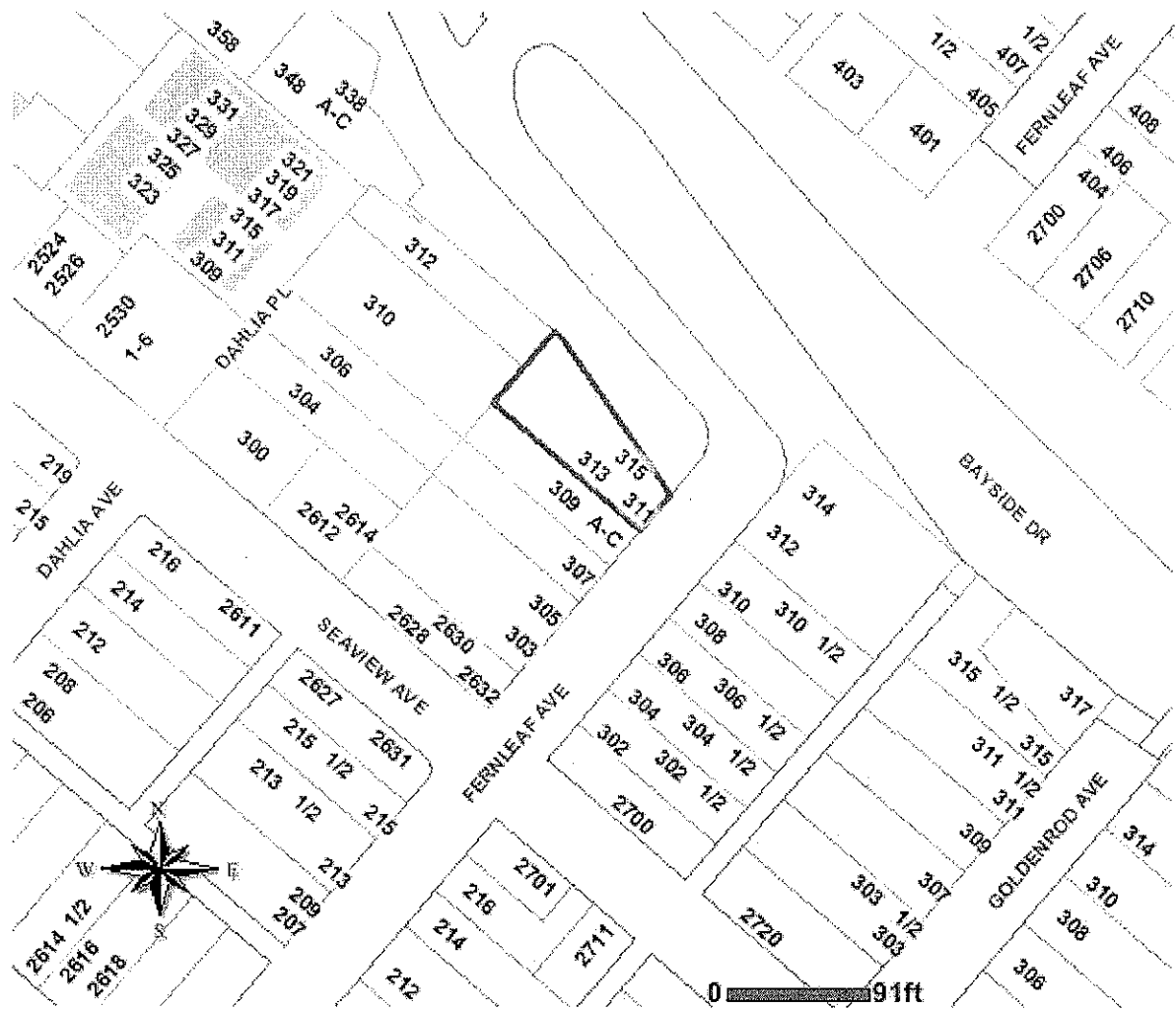
Letter of Opposition – Carol Pangburn, owner 313 Fernleaf Avenue

Letter of Opposition – Helen R. Rask, owner 309 Fernleaf Avenue

Appeared in Opposition: Carol Pangburn

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-007  
PA2008-009

**311 Fernleaf Avenue**

February 14, 2008

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Page 6



**To:** City of Newport Beach Zoning Commissioners

**From:** Carol Pangburn, owner/resident of **313 Fernleaf Ave.**, Corona del Mar

**Re:** **311 Fernleaf** and John Kenney's application to redevelop/reconstruct/remodel same

**BACKGROUND INFO** on 313 Fernleaf.

I originally purchased 313 Fernleaf in January of **2003** from John Kenney, the developer and owner of the 3 unit condo conversion which he completed in **2002**. I was the 1<sup>st</sup> owner of 313. John kept 311 Fernleaf for his own use and later sold 315 Fernleaf to a friend. At the time I purchased, my husband Dick had terminal cancer. We both felt that the small, 1-story condo (1 bdrm + den) was the perfect retirement home for me: little yard upkeep, walking distance to shopping and the beach, close to Oasis Senior Center, and close to family, friends and church. Senior housing in Newport is scarce so we felt very blessed to find this treasure even though we paid top of the market price.

When Dick died in **2005** I sold our family home and asked my tenant at 313 to vacate so I could move in. I spent thousands on adding a wall of cabinets and granite counters in my little den and on improving my patio/decking which is a wonderful outdoor extension of my main living are. I love my home on Fernleaf and have planned to live out my remaining life there.

In my 2 ½ years of living on Fernleaf John Kenney, several times, told me he planned to buy my condo back and rebuild what he should have done the first time. He said there was quite a bit of square footage for "us" to add to the property. I told him I loved it there, where would I go, and my price would be too high to make any sense for such a project. I really thought he was just teasing, dreaming etc.

So, I was flabbergasted when on **January 9, 2008**, John informed me I would be getting a postcard on a hearing. He said he was going to add 2 more stories to his unit and basically tear it down and rebuild. He said there were 1746 square feet to be used and he was going to add 1235 to his unit, leaving 511 for use by the other 2 units. He said he'd been planning these changes for 2 years. If only he'd been more open about this and had discussed it with me surely we could have negotiated the square footage and the plans.

A few days ago I discovered that Mr. Kenney approached the owner of 315 several months ago regarding the architectural plans and suggested what that owner could do with the extra square footage. The 315 owner, being quite interested, met with Mr. Kenney's architect. When Mr. Sipos (315) asked what the amount of square footage left for Carol would be, the architect replied there was none left. Mr. Kenney suggested to Mr. Sipos that he not tell Carol, that she is old, and she will be upset. (At least he got that right, I am old and I am upset.) Mr. Sipos decided he wanted no part of this collusion and has not spoken to Mr. Kenney since.

I'm honestly very shocked that one owner in a 3-unit condo development with common walls, roofs, airspace, yards, walks etc. can do such major construction without the agreement of the other 2 owners. It seems to me that he's treating his condo like a detached home, rather than the condo that it is, joined to mine with a common single roof and a common wall.

I'm protesting this construction and felt the above background would help in clarifying my situation and hopefully provide you, our commissioners, with facts to make a fair decision.

## MY PROTESTS TO THE 311 CONSTRUCTION

1. I am going to be dwarfed by the 3-story building. The additional height will take sunlight and light from my deck area at the rear and the courtyard at the front, these being my only source of **light** and **ventilation**. Connected to me on 1 side (315) is a 2-story unit built over the garages. And now on the other side (311) a 3-story. I will be lost in the middle. Please picture the cartoon of the little house between 2 towering buildings...the "guy who refused to sell out." I protest not only my loss of light and sun, but loss of property value. Who will want to buy this little home connected to a towering 3-story?

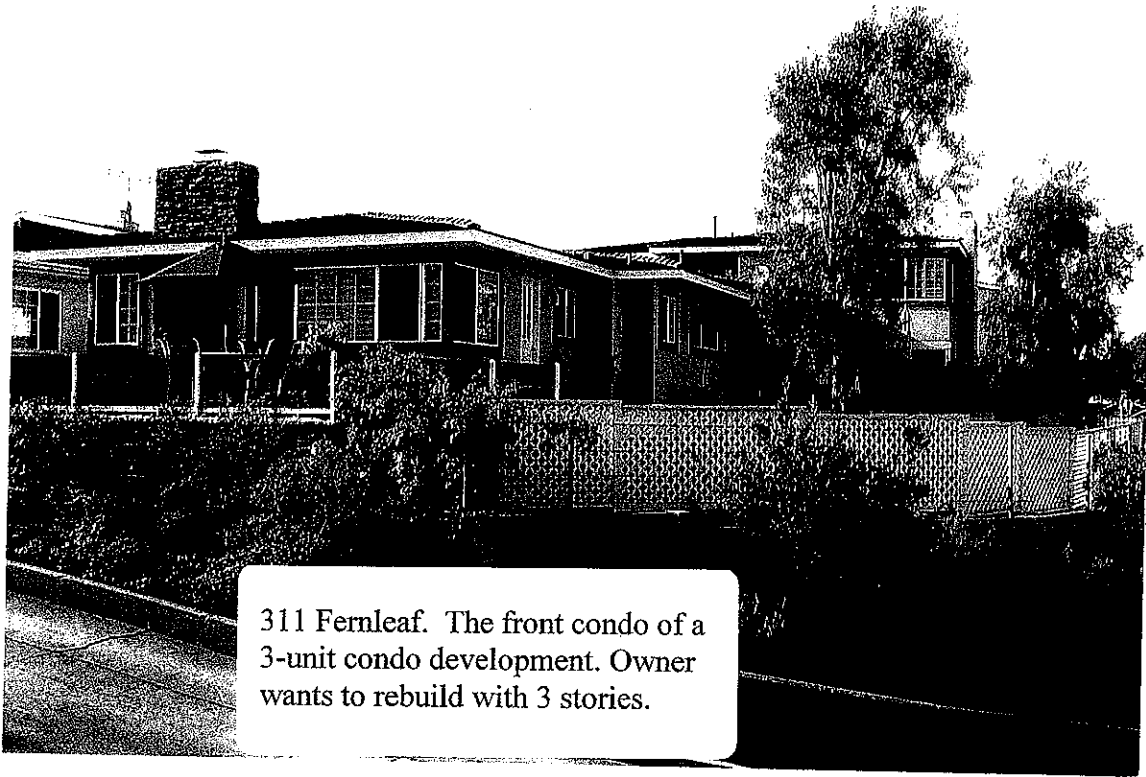
2. I am very worried about my roof. We (311 and 313) have a common roof...please see photos... How can Mr. Kenney cut into that roof without creating tremendous problems in regards to roof leaks. And where does he cut in?? The ridges of the roof are not aligned with the common wall. I really fear the destruction of that common area...wall and floors. The same applies to our common foundation and our common wall. (See photos of roof)

3. I was not aware, when I purchased the condo, that our property was non-conforming in that the set back at the rear walkway from the alley, next to our garages, was 3 feet, rather than the required 4 feet. Shouldn't Mr. Kenney have corrected that when he developed the property the 1<sup>st</sup> time? It appears that he could have, at least, been made to move the box housing the meters to another location, leaving enough **accessibility** for wheelchairs. The setback from the large box housing the meters is approximately 1 foot.. We all access from the alley, mainly because there are red curbs and no parking in front. Its impossible to get a wheelchair through that area without trespassing on the neighbor's property. (See photo)

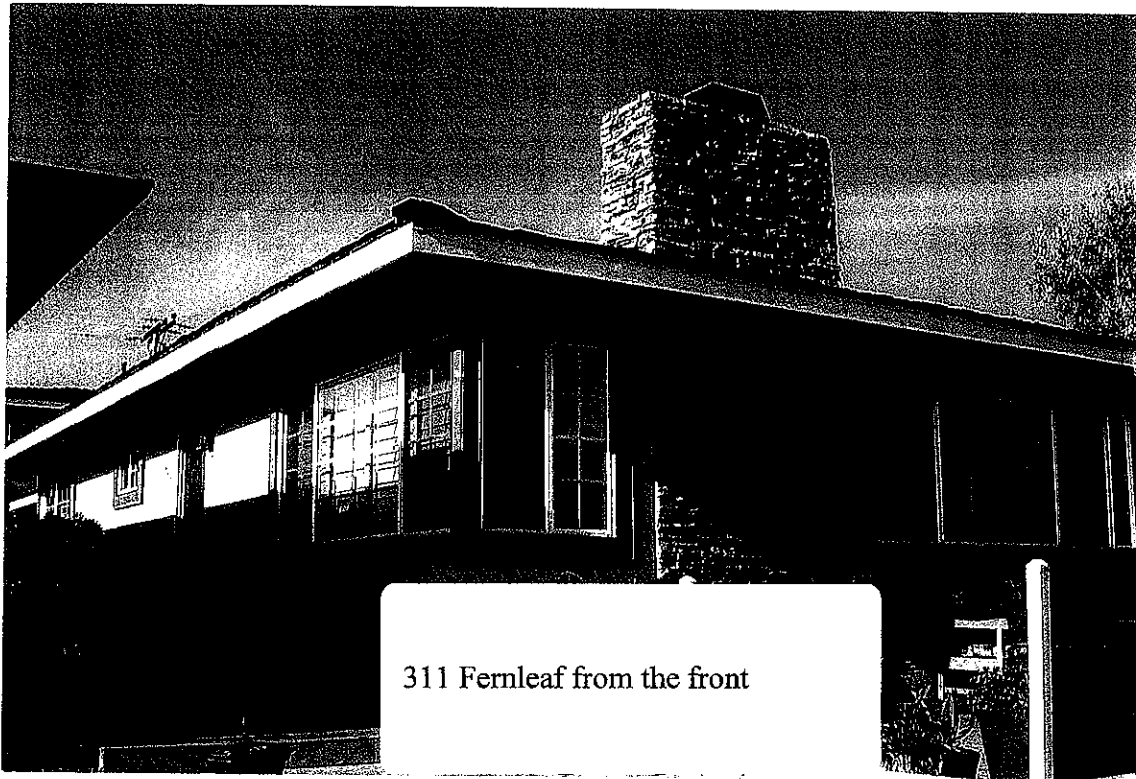
4. I'm also wondering if Mr. Kenney shouldn't be required to have a Geological/Soil Engineering Report update. Its been at least 8 years since the retaining walls and special plantings were put on the Fernleaf Ramp hillside which abuts our property. Perhaps the soil should be tested again to be sure the walls and plantings have solved that original drainage problem, and to be sure the loads from 2 additional stories don't cause slippage. (Photos of hillside)

In closing, its really too bad Mr. Kenney didn't talk this over with me before he spent thousands of dollars on his architectural plans. There's an additional 1,746 square feet that can be added to our combined property. Why does Mr. Kenney get 1,235 of this, leaving 511 for the other 2 of us to use? When I asked Mr. Kenney this question, he laughed and responded, "First come, first served." I don't find this funny, or fair.

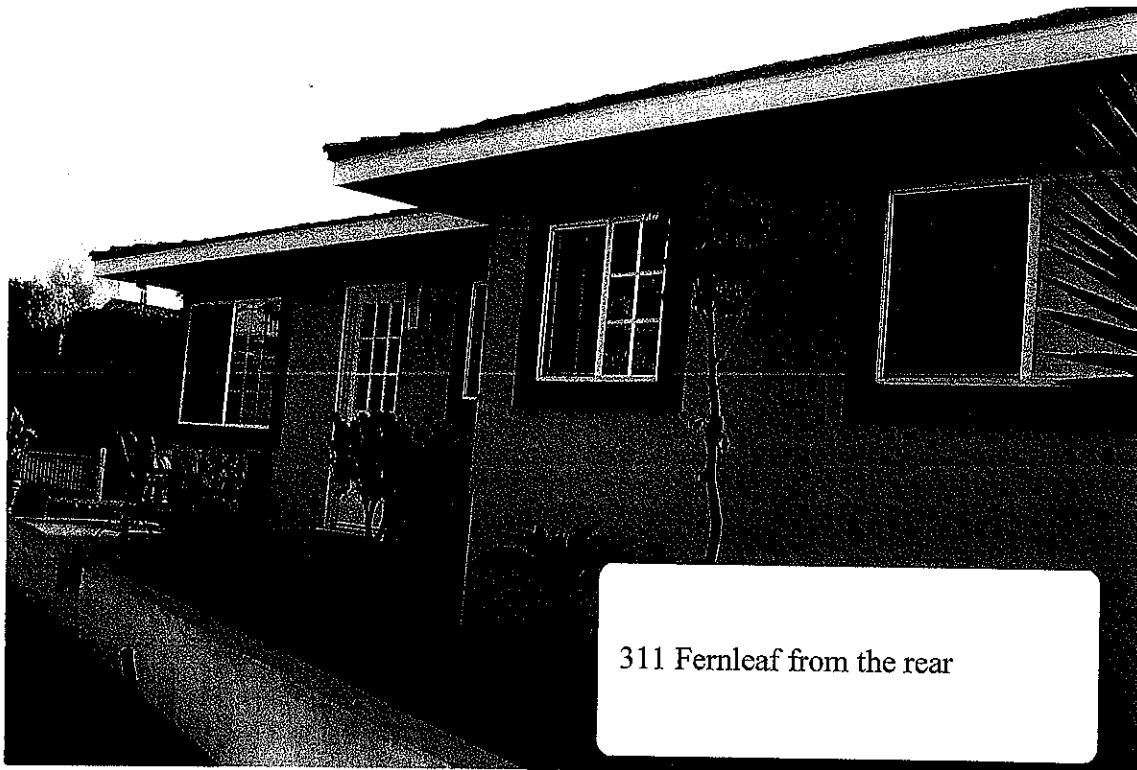
Our 3 unit condo development is unique, as most all of the small condo developments in the village are 2 units. If you are going to vote "yes" to Mr. Kenney, I invite you to come out, before you vote, and personally view the property to see how it sits and to see for yourself its uniqueness. View it from across the Bayside gully at the end of Dahlia or Fernleaf. Then walk around it and check out the common areas and picture the proposed 3 stories of the little front house. I hope you would then ask Mr. Kenney to go back to the drawing board and come up with something acceptable to all 3 of us, something that conforms and that doesn't block light and views of our open space, something that will not cause damage or destruction to my home or to our lot, and something that gives me and my guests accessibility.



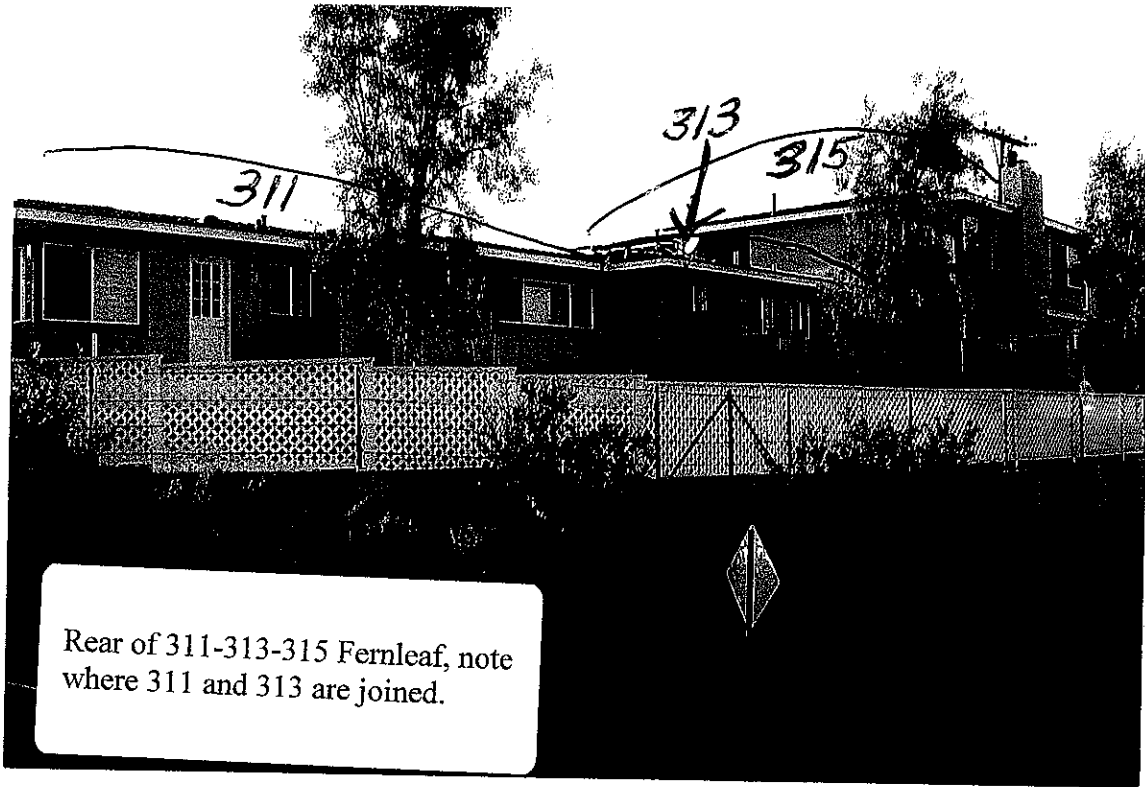
311 Fernleaf. The front condo of a 3-unit condo development. Owner wants to rebuild with 3 stories.



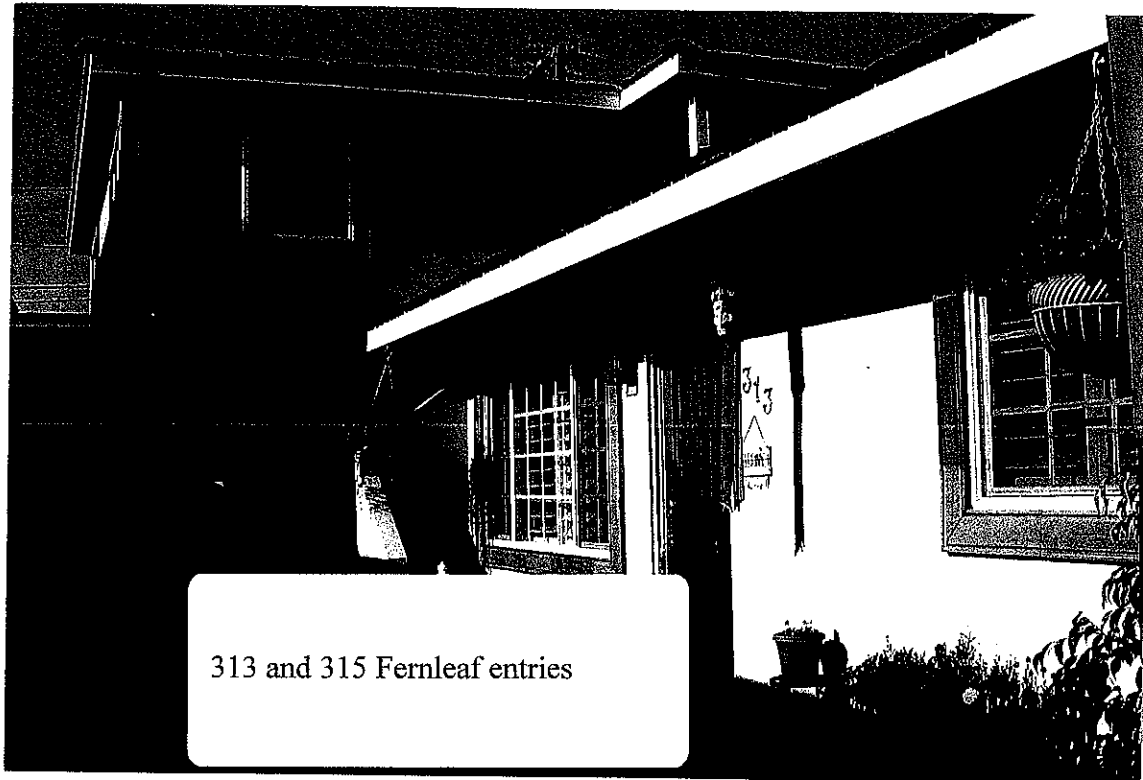
311 Fernleaf from the front



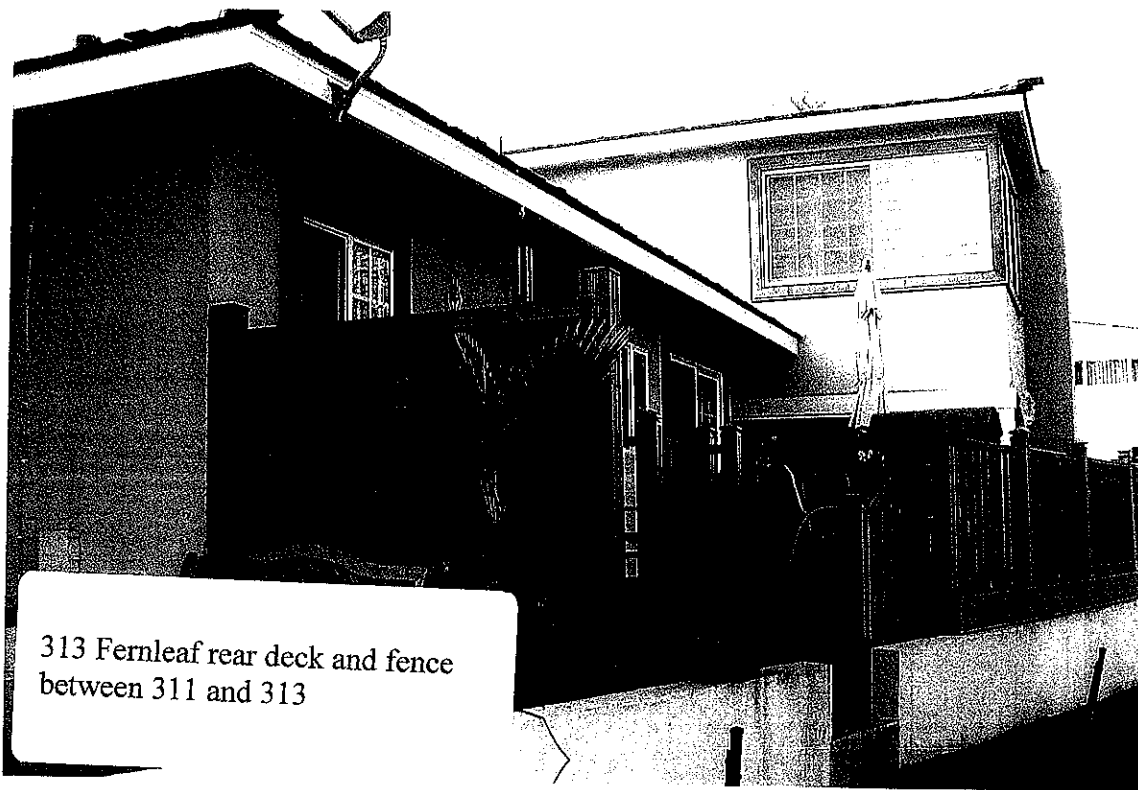
311 Fernleaf from the rear



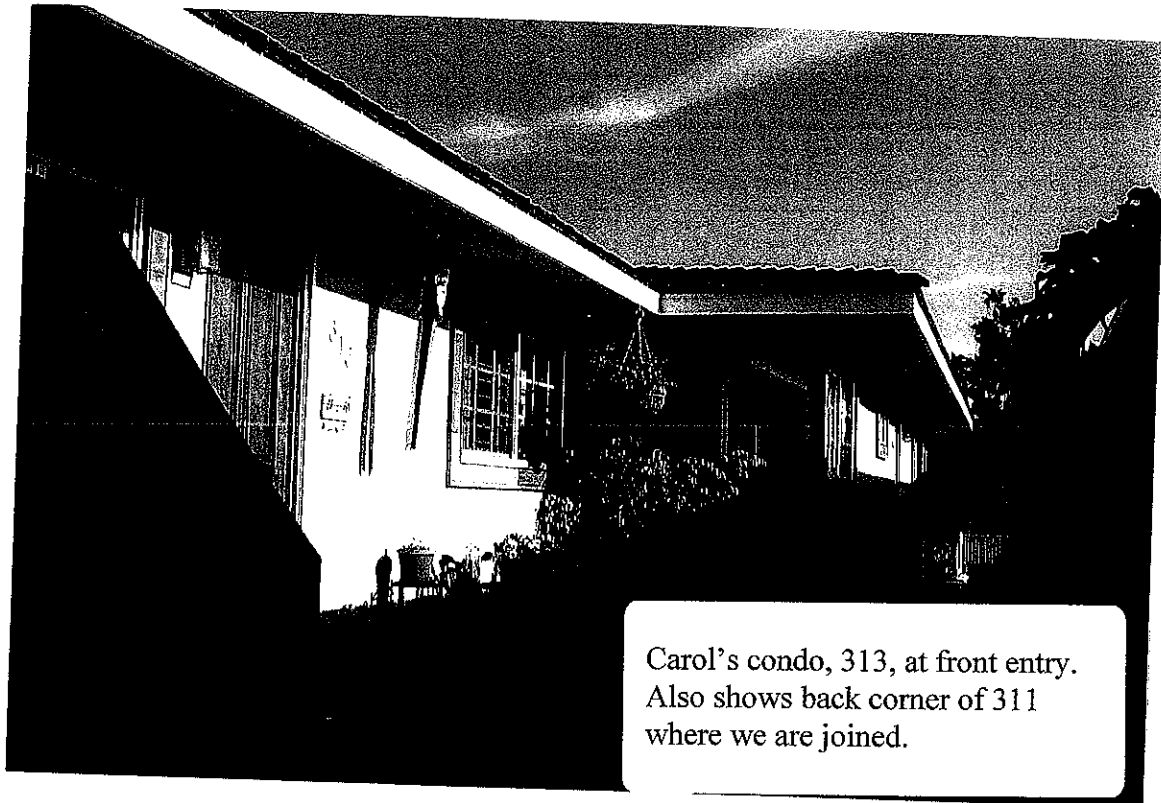
Rear of 311-313-315 Fernleaf, note where 311 and 313 are joined.



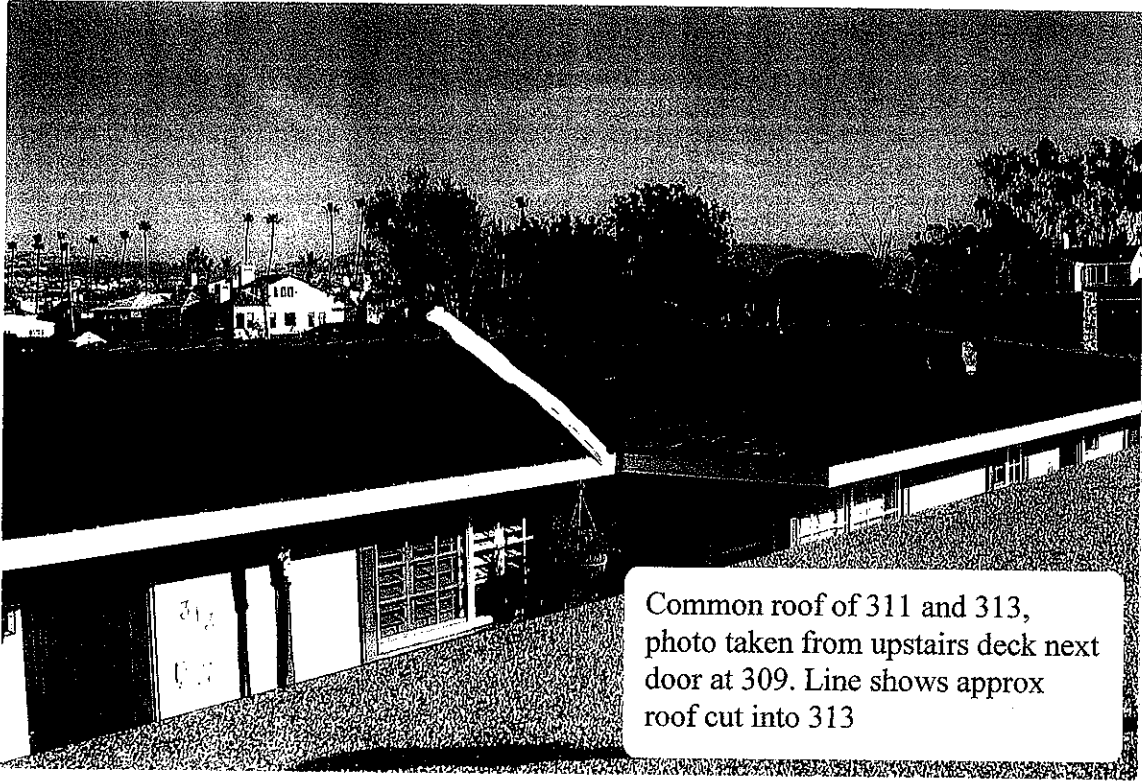
313 and 315 Fernleaf entries



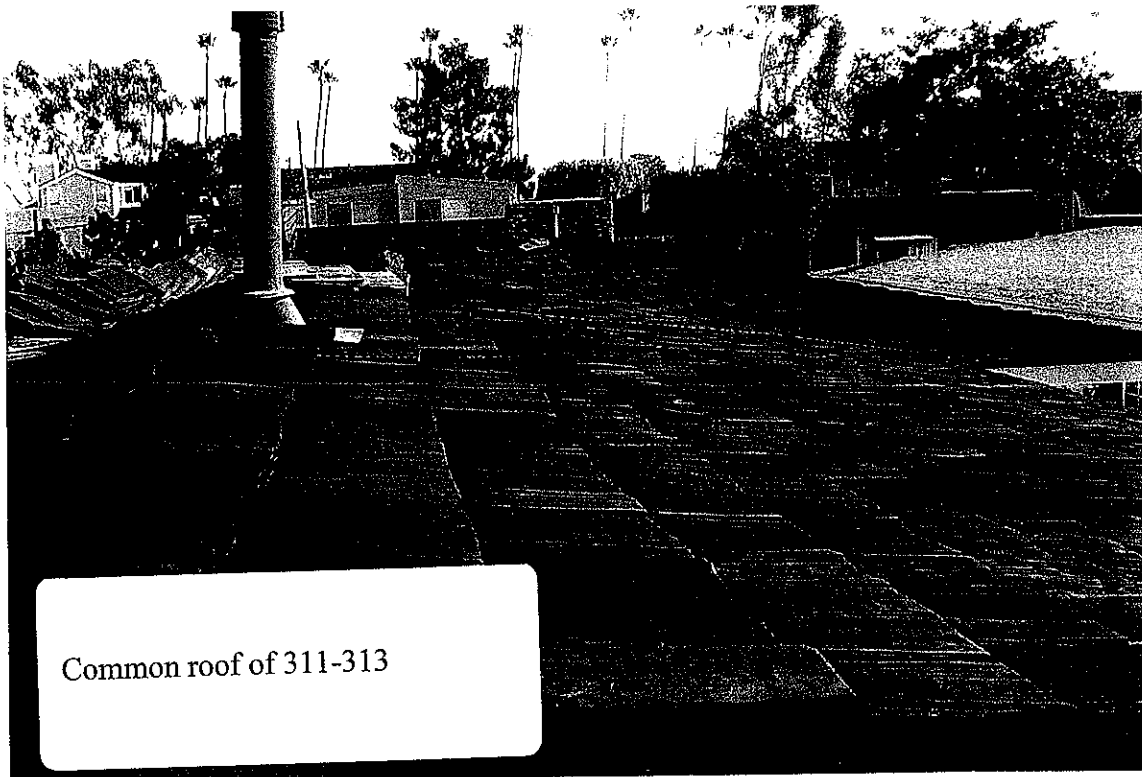
313 Fernleaf rear deck and fence  
between 311 and 313



Carol's condo, 313, at front entry.  
Also shows back corner of 311  
where we are joined.



Common roof of 311 and 313,  
photo taken from upstairs deck next  
door at 309. Line shows approx  
roof cut into 313



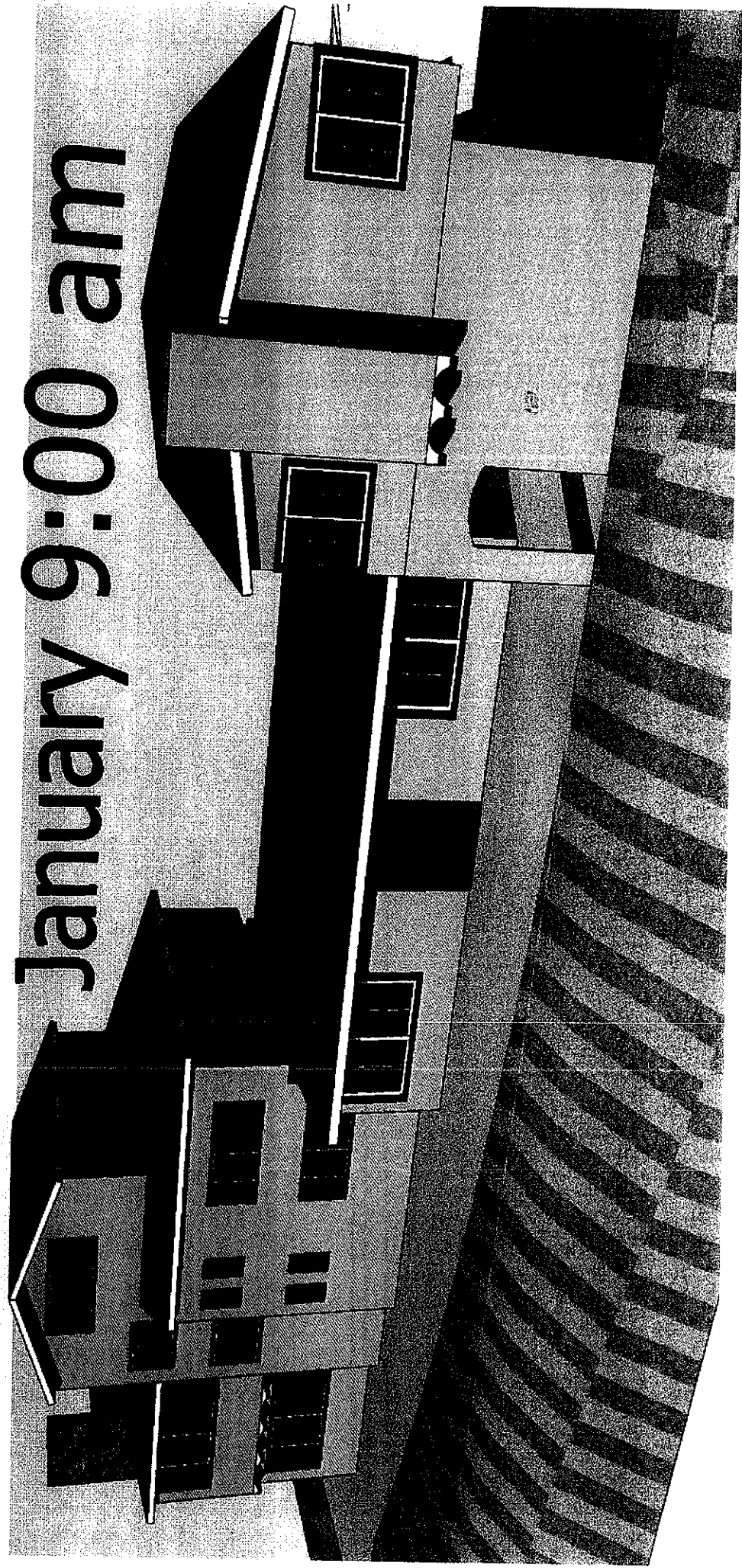
Common roof of 311-313

Januar y 2:00 pm

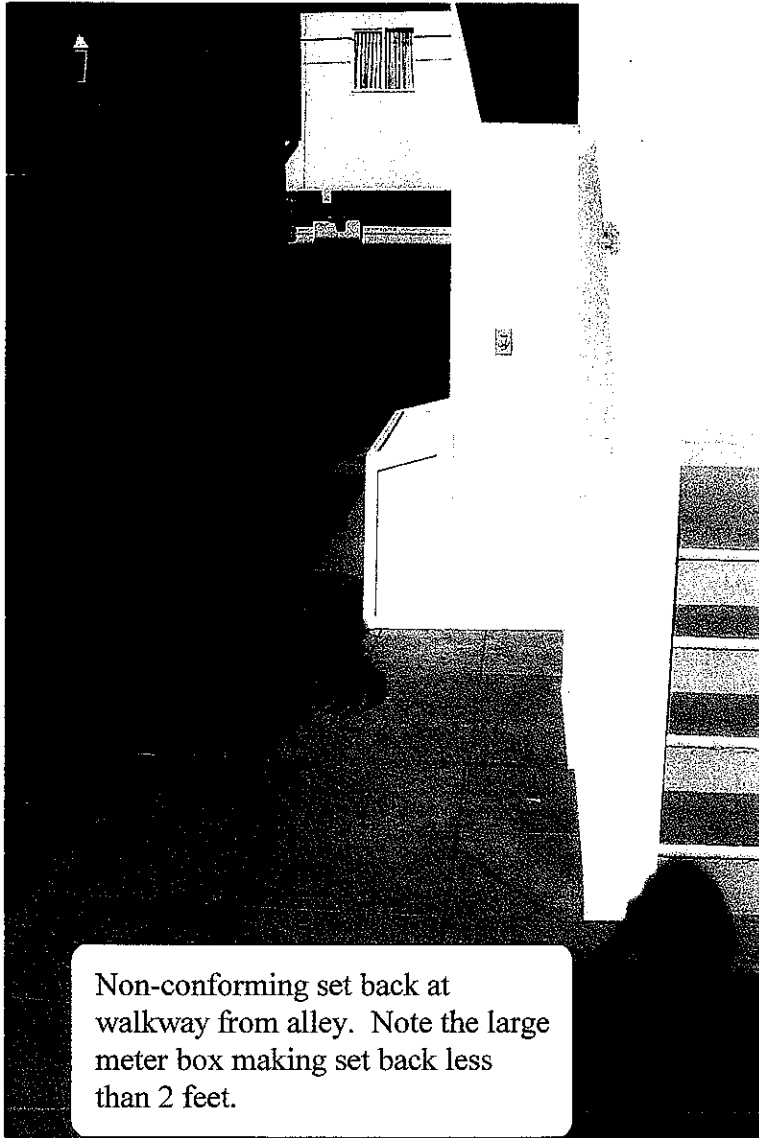




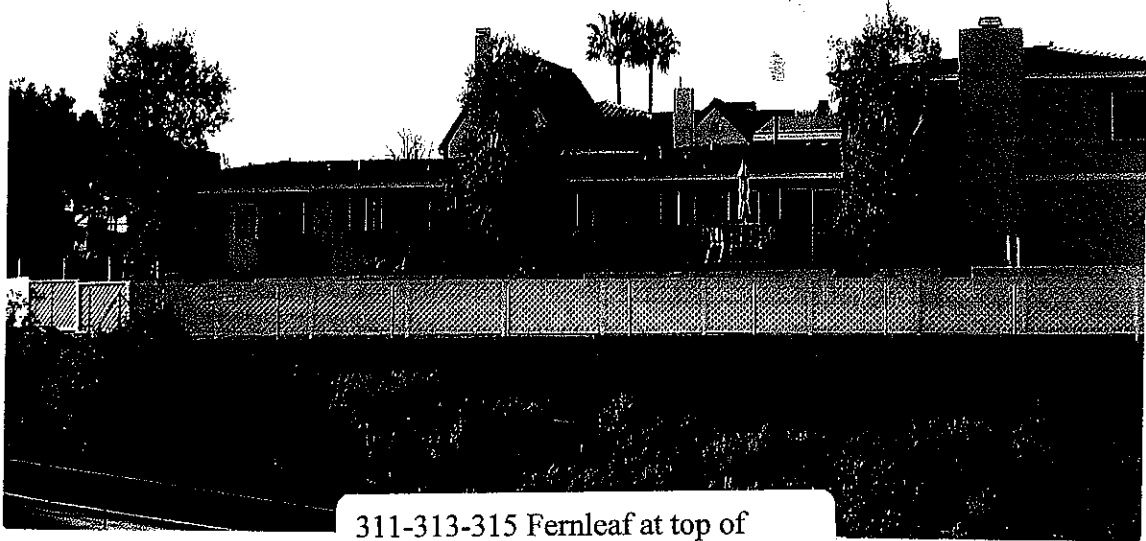
January 9:00 am



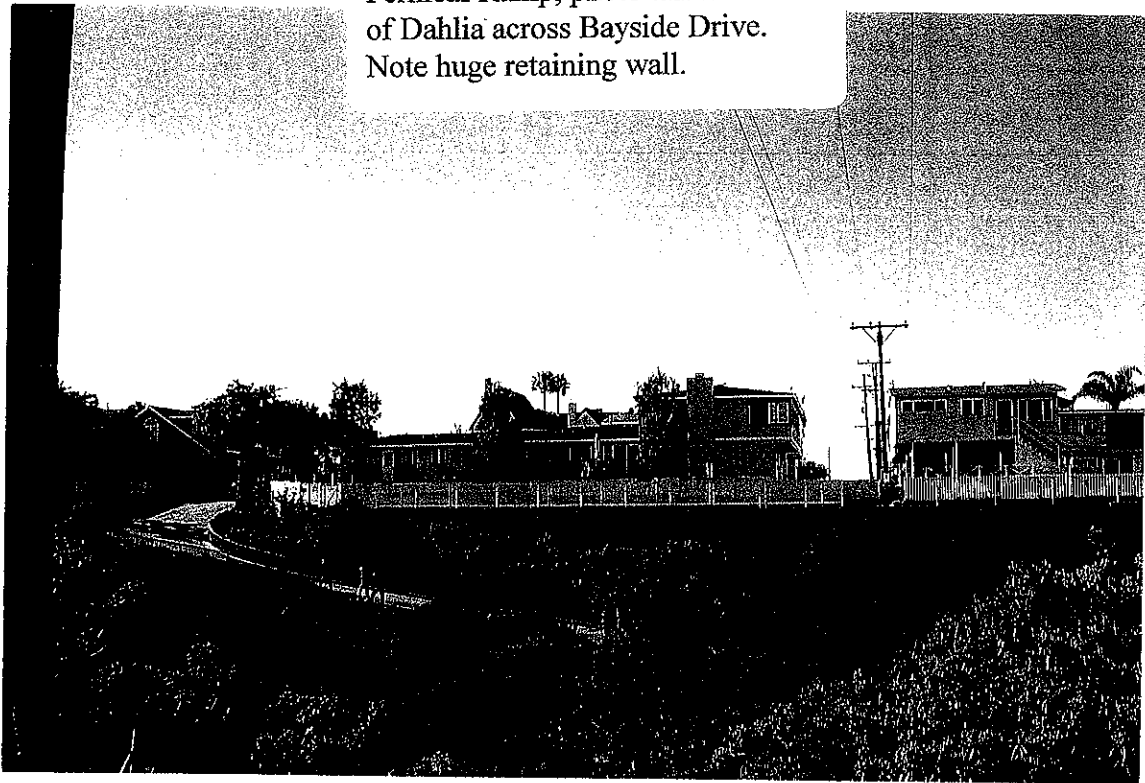
This presentation was done using  
Mr. Kenney's plans and software  
by "Sketchup"



Non-conforming set back at walkway from alley. Note the large meter box making set back less than 2 feet.



311-313-315 Fernleaf at top of Fernleaf Ramp, photo taken at end of Dahlia across Bayside Drive. Note huge retaining wall.



Helen R. Rask  
P. O. Box 9215  
Newport Beach, CA 92660

February 14, 2008

Zoning Administrator of City of Newport Beach  
Planning Hall City Hall  
3300 Newport Blvd.  
Newport Beach, CA 92661-3884  
Fax ((49) 644-3229

Please read at the Hearing

Re: Modification Permit No. MD 2008-007  
Address: 311 Fernleaf, Corona Del Mar, CA

Faxed and Mailed

Dear Zoning Administrators and Planning Commission:

I, Helen R. Rask, am the owner of the three unit apartment structure directly West of the subject property and am hereby voicing my objection to this application or to the request to conduct further construction at the property referenced above. I am most concerned with the negative effect that this project if allowed or approved will have on the surrounding property values as a whole and upon my ability to retain renters at my own premises. We have had experience with this individual, Mr. Kinney, in the past and the manner he handles and manages his construction project, specifically when Mr. Kinney was granted permission to convert his three unit rental building into condos. This ordeal was horrendous and we suffered through what seemed like years of construction distress at GREAT expense of time, disturbance, filth and disruption. Under the direction of Mr. Kinney there was a mass parking problem in the alley suffered by the entire neighborhood and daily problems with trucks, debris and noises including the unpleasant doses of foul language and explicatives from Mr. Kinney and his workers. When the construction was done we were relieved and allowed to go back to a normal existence at the beach property but the project did have a negative effect on our rental business and the right of our tenants to quiet enjoyment.

Concerning the above-referenced request for a Modification permit by Mr. Kinney, please be advised that I/we request that the application be

denied, for various business and personal reasons, including but not limited to the following:

If it is true that Mr. Kinney intends to build a three story structure at the subject premises and this height and style of structure seems to be contrary and incongruous to the area and other structures in the area, the majority of which are limited to one and two story. It would appear that the Zoning and City would be interested in preserving the coastal structures, most likely designed to preserve the quality of the area, view and environment that exists. It would seem that there should by definition exist a height requirement that applies to all plans that does preserve the open sky quality of the beach which is the very reason persons pay dearly to live at any beachside structure/property. If this application and the proposed construction is allowed it would give way to what seems to be an allowance to further "bastardize" the area that previously existed in harmony. Again it will devalue the surrounding properties in so doing.

Lastly, we want to protest on behalf of our residents at 309 Fernleaf that if this project is allowed it will create further unwanted disturbance, nuisance and breach of their right to have a visually pleasant environment, again that they have paid for and deserve. Our residents and our business will be negatively affected by the allowance of this permit.

Please contact the undersigned if there are any questions that you may have. Thanks for your attention and your anticipated cooperation with the above.

Sincerely,



Helen R. Rask

Owner of 309 Fernleaf Avenue, Corona Del Mar, CA  
(949) 660-8807





**MODIFICATION PERMIT NO. MD2008-008**

(PA2008-010)

PLANNING DEPARTMENT  
3300 NEWPORT BOULEVARD  
NEWPORT BEACH, CA 92663  
(949) 644-3200 FAX (949) 644-3229

<b>Application No.</b>	<b>Modification Permit No. MD2008-008 (PA2008-010)</b>
<b>Applicant</b>	<b>Dennis Stout</b>
<b>Site Address</b>	<b>1700 16th Street</b>
<b>Legal Description</b>	<b>P Bk15 PG36 Par 2</b>

On **February 14, 2008**, the Zoning Administrator approved the application request to allow the construction of two single-face monument signs and the retention of an existing pole sign. The proposed monument signs will be 6 feet in height and width, and located on site at the intersections of Sherington Place and Sea Gull Lane and 16th Street and Sea Gull Lane. The Zoning Code allows one freestanding sign per site, limited to 12 square feet in area and located only at the main entrance. This proposal is similar to signs approved by Modification No. 5159 for adjacent parcel at 880 Irvine Avenue. The property is located in the PC-4 (Coronado Apartments, formerly Oakwood Apartments) District. The Zoning Administrator's approval is based on the following findings and subject to the following conditions.

---

**FINDINGS**

1. The Land Use Element of the General Plan designates the site for "Multiple-Unit Residential" use. The existing residential structure is consistent with this designation. The sign structures are accessory to the primary use.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 3 (New Construction or Conversion of Small Structures).
3. The modification to the Zoning Code, as proposed, is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code. It is a logical use of the property that would be precluded by strict application of the zoning requirements for this District for the following reasons:

- The existing multiple-unit structure is a part of a planned community. The development standards for this site do not include guidelines for signage, therefore this property is subject to Chapter 20.67 of the Zoning Code.
  - The Zoning Code allows one freestanding sign per site, limited to 12 square feet in area, and located only at the main entrance. This size limitation does not take into account the size of the property or number of entrances.
  - This proposal is similar to approved Modification No. 5159 for adjacent parcel at 880 Irvine Avenue.
4. In accordance with the provisions of Chapter 20.93, the granting of this application is necessary due to practical difficulties associated with the property. The strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code for the following reasons:
- The size of the project and the number of street intersections justify the need for multiple project identification signs.
  - Adequate signage will improve traffic circulation by providing greater visibility to people who are trying to locate the subject property.
5. In accordance with the provisions of Chapter 20.93, the requested modification will be compatible with existing development(s) in the neighborhood for the following reason:
- The proposed signage is similar to and consistent with modified and conditioned approvals granted to the adjacent multiple-unit property that is a part of the same planned community as the subject property.
6. In accordance with the provisions of Chapter 20.93, the granting of this Modification Permit will not adversely affect the health or safety of persons residing or working in the neighborhood of the property and not be detrimental to the general welfare or injurious to property or improvements in the neighborhood based on the following:
- The size of the project and the distance between the proposed signs reduces any negative or adverse impact of the increased number of signs.

### **CONDITIONS**

1. The development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted in the following conditions.
2. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.

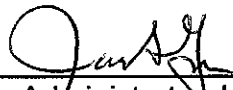


3. The pole sign shall not exceed 15 feet 6 inches in height. The face on each side shall be no greater than 80 inches by 90 inches. No riders or other sign faces shall be permitted to attach to the pole sign, unless otherwise approved by the Planning Department.
4. Only two monument signs are approved by this application, one at the intersection of Sherington Place and Sea Gull Lane and the second at 16th Street and Sea Gull Lane.
5. The monument signs are limited to a maximum height of 6 feet high and shall have a maximum base width of 8 feet. The sign face shall be limited to a single side of 3 feet 3 inches high by 5 feet wide. The monument signs may be externally illuminated only, unless otherwise approved by the Planning Department.
6. The final location of the signs shall be reviewed by the City Traffic Engineer and shall conform to City Standard 11-L to ensure that adequate sight distance is provided.
7. If any of the existing public improvements surrounding the site are damaged by private work, new concrete sidewalk, curb and gutter, street pavement, and other public improvements will be required by the City at the time of private construction completion. Said determination and the extent of the repair work shall be made at the discretion of the Public Works inspector.
8. This approval was based on the particulars of the individual case and does not, in and of itself or in combination with other approvals in the vicinity or Citywide, constitute a precedent for future approvals or decisions.
9. Prior to or concurrent with the issuance of building permits, the applicant shall submit to the Planning Department an additional copy of the approved architectural plans for inclusion in the Modification Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11-inches by 17-inches. The plans shall accurately depict the elements approved by this Modification Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
10. A building permit shall be obtained prior to commencement of the construction.
11. A copy of this approval letter shall be incorporated into the Building Department and field sets of plans prior to issuance of the building permits.
12. All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement, if required.

13. This approval shall expire unless exercised within 24 months from the approval date, as specified in Section 20.93.050 (A) of the Newport Beach Municipal Code. Prior to the expiration date of this approval, an extension may be approved in accordance with Section 20.93.050 (B) of the Newport Beach Municipal Code. Requests for an extension must be in writing.

**APPEAL PERIOD**

The Zoning Administrator's decision may be appealed to the Planning Commission within 14 days of the action date. A \$600.00 filing fee shall accompany any appeal filed. No building permits may be issued until the appeal period has expired. **A copy of the approval letter shall be incorporated into the Building Department set of plans prior to issuance of the building permits or issuance of revised plans.**

By:  \_\_\_\_\_  
Zoning Administrator Javier S. Garcia, AICP

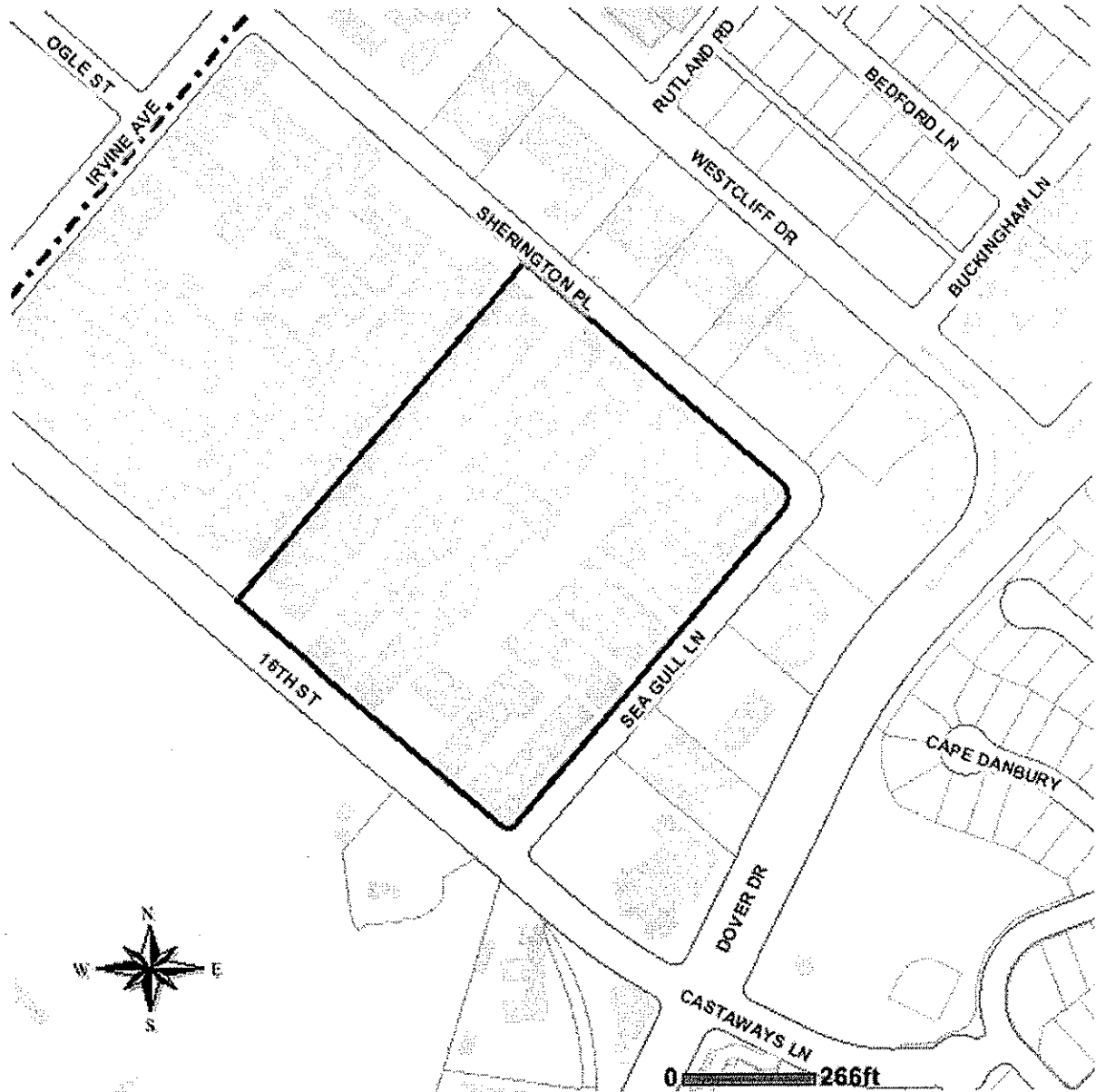
JSG:fn/es

Attachments: Vicinity Map  
Project Plans

Appeared in Opposition: None

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-008  
PA2008-010

**1700 16th Street**

**Coronado at Newport**  
**1700 N. 16th Street**  
**Newport Beach, CA**

REVISED PLANS  
REQUIRED

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FILE COPY

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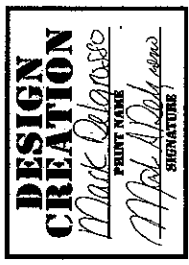
**SUMMITWEST SIGNS**

335 E. BASELINE ROAD GILBERT, AZ 85233

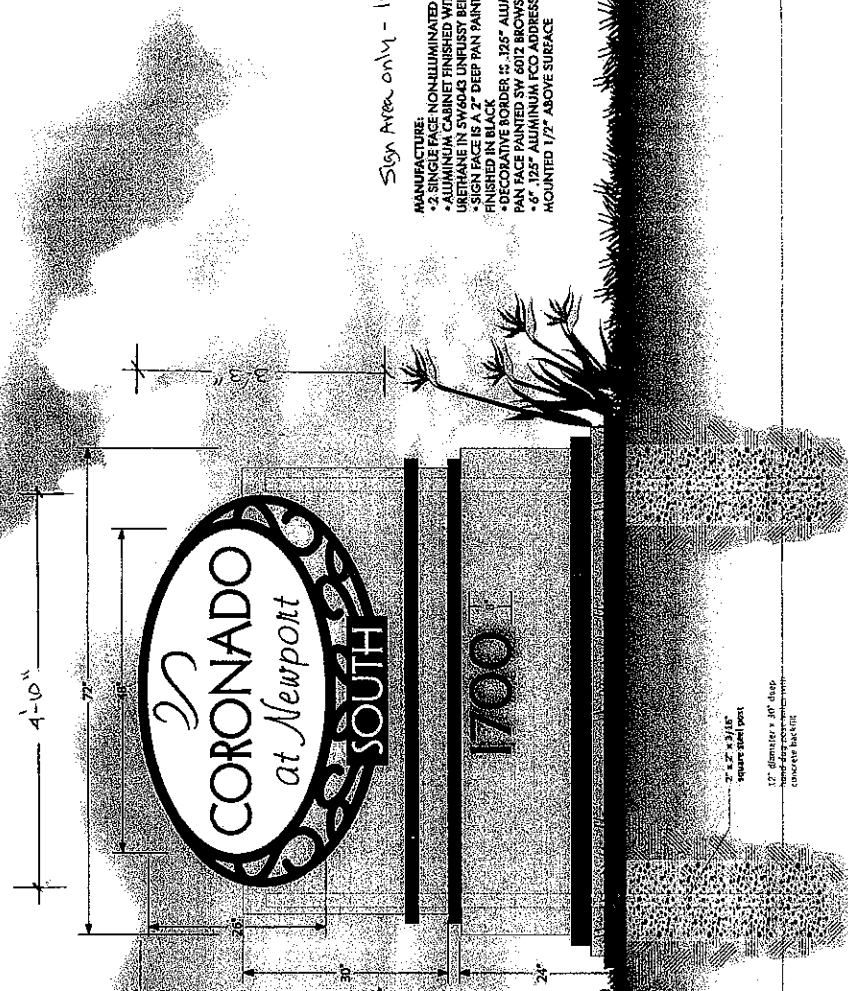
phone. 480.926.3465

facsimile. 480.926.7350

PA2008-010 for MD2008-008  
1700 16TH STREET  
Dennis Stout



- COLOR SCHEDULE**
- SW 6034 ARRESTING AUBURN
  - SW 6012 BROWSE BROWN
  - SW 6043 UNFLUSSY BEIGE
  - MAP BLACK



Sign Area only - 15.70 S.F.

- MANUFACTURE:**
- 2 SINGLE FACE NONILLUMINATED MONUMENT SIGNS
  - ALUMINUM CABINET FINISHED WITH FINE MONTEX TEXTURE AND MULTI-PART URETHANE IN SW6043 UNFLUSSY BEIGE
  - SIGN FACE IS 1/2" DEEP PAN PAINTED WHITE WITH 1/2" ACRYLIC PUSHTHRU LETTERS
  - DECORATIVE BORDER IS 1/2" ALUMINUM SCROLLWORK WITH SOLID CENTER BEHIND PAN FACE PAINTED SW 6012 BROWSE BROWN
  - 5" 1/2" ALUMINUM FCC ADDRESS NUMBERS PAINTED SW 6034 ARRESTING AUBURN, MOUNTED 1/2" ABOVE SURFACE

**SUMMITWEST SIGNS** | 335 E. BASELINE ROAD GILBERT, AZ 85233 | phone. 480.926.3465 | facsimile. 480.926.7350 | patrick@summitwestsigns.com | File: 27269 P2 United Dominion V2.ai

INSTALL INFO: 1700 N. 14th Street Newport Beach, CA

CLIENT: Sr Patrick Tennant

COMPANY: United Dominion

DESIGNER: MAD | 05/18/07 | 27269

START DT: 11/05/07

JOB NUMBER: 27269

DATE: 11/05/07

PROOF OK AS IS  PROCEED WITH CHANGES AS MARKED  NEW PROOF REQUIRED

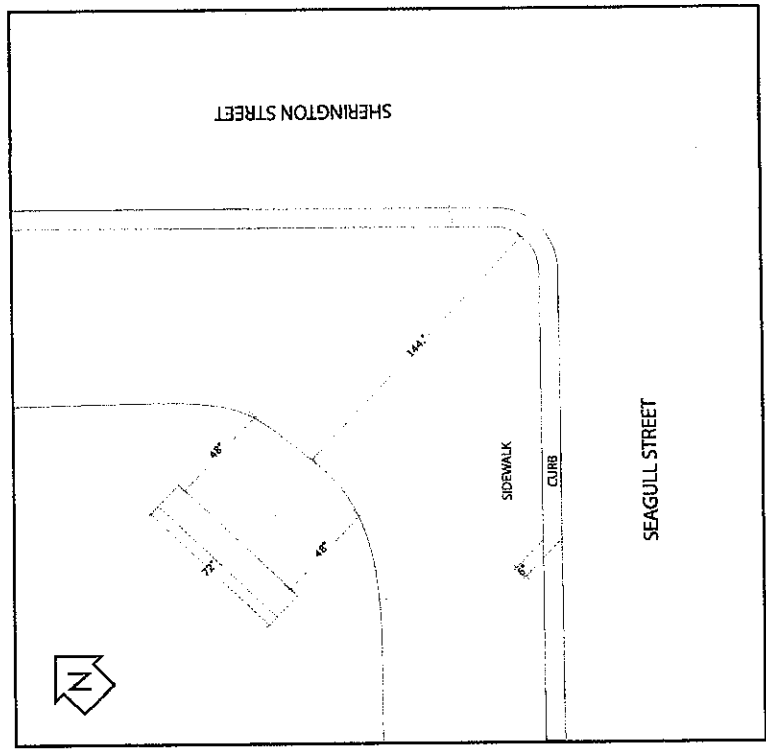
DATE: \_\_\_\_\_

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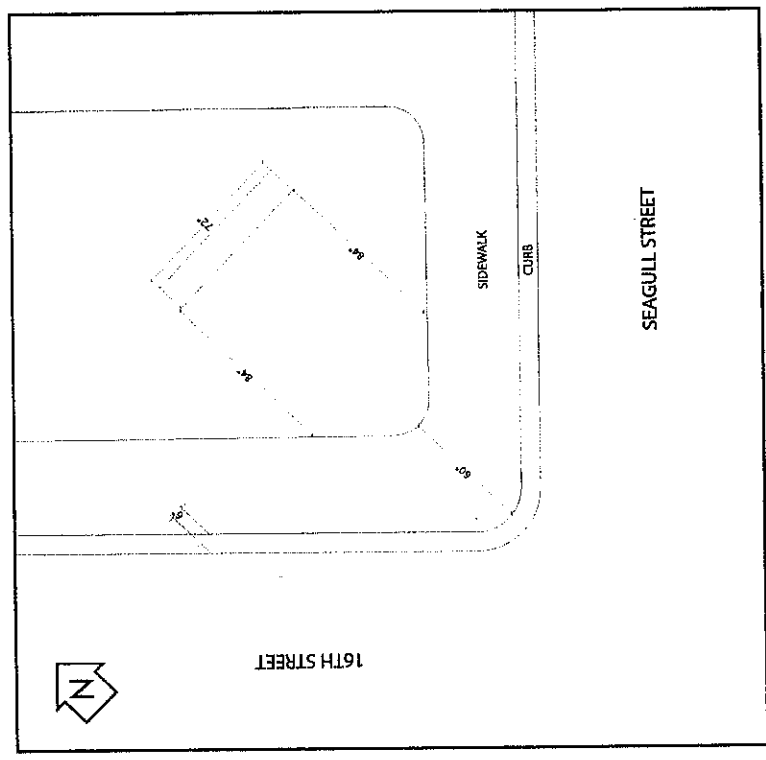


**DESIGN CREATION**  
 Mark Delanso  
 PRINT NAME  
 Mark Delanso  
 SIGNATURE

SIGN B



SIGN A



SUMMITWEST SIGNS | 335 E. BASELINE ROAD GILBERT, AZ 85233 | phone. 480.926.3465 | facsimile. 480.926.7350 | patrick@summitwestsigns.com | File: 27269 P3 United Dominion V2.dwg



INSTALL INFO: 1700 N. 16th Street, Newport Beach, CA  
 DESIGNER: MAD  
 START DT: 05/18/07  
 JOB NUMBER: 27269

3P: Patrick Tennant

COMPANY: United Dominion

CLIENT:

PROOF OK AS IS  PROCEED WITH CHANGES AS MARKED  NEW PROOF REQUIRED

DATE: \_\_\_\_\_

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1/2" thick push-thru graphic with black HP film overlay (1" contour around graphic)

Aluminum face painted SW 7000 Ibis White with reverse routed copy. Contour is created around copy for greater area of illumination

Letters are push-through 1/2" acrylic mounted on polycarbonate backer

Letters are clear 1/2" acrylic with black HP film applied first surface (1" contour around text)

T-bar painted SW Ibis White

Routed face painted to match Unfussy Beige

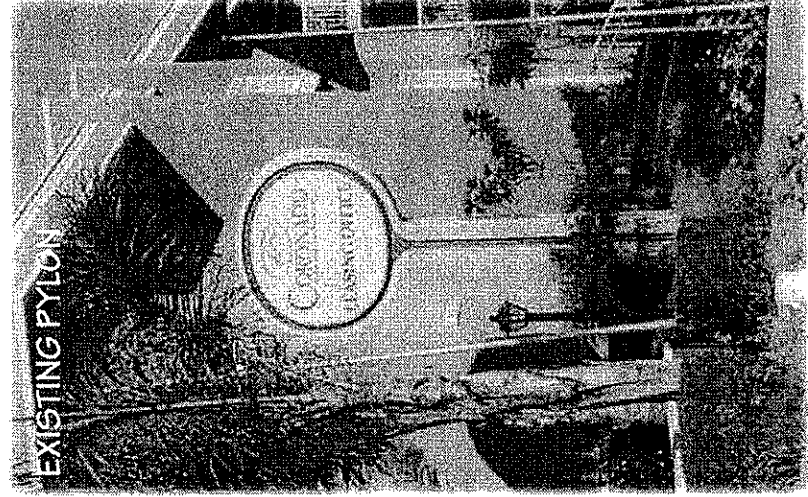
Letters are 1/2" thickness push-through with Black HP film and 3M Rust Brown translucent film applied first surface. Face is changeable.

Reclad or skin pole cover with new painted aluminum

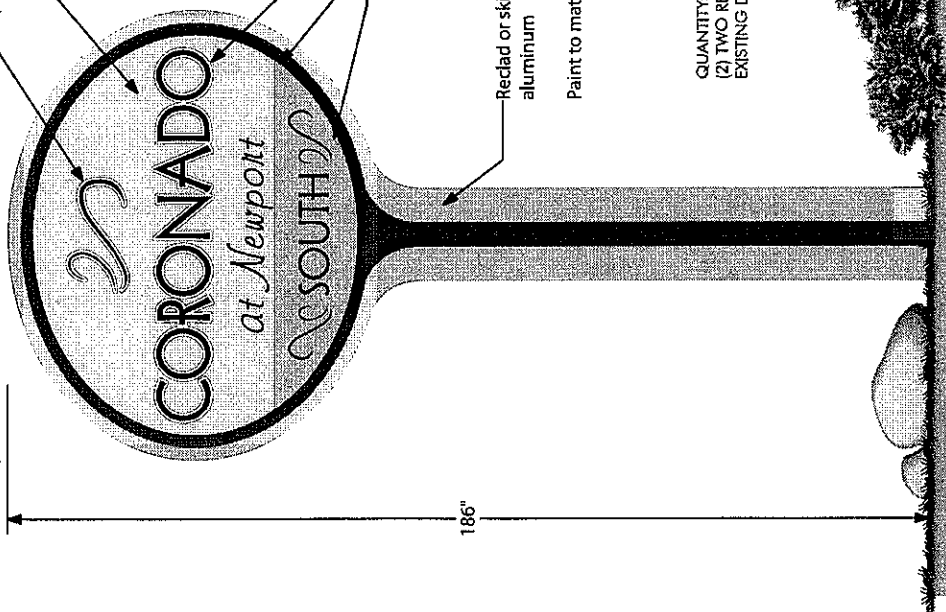
Paint to match: Unfussy Beige & Browse Brown

QUANTITY:  
(2) TWO REPLACEMENT FACES FOR  
EXISTING DOUBLE FACE PYLON SIGN

- SW 7000 Ibis White
- SW 6034 Arising Auburn
- SW 6012 Browse Brown
- SW 6043 Unfussy Beige
- Black HP Film



EXISTING PYLON



SUMMITWEST SIGNS | 335 E. BASELINE ROAD, GILBERT, AZ 85233 | phone: 480.926.3465 | fax: 480.926.7350 | patric.k@summitwestsigns.com | File: 27269 Coronado South-pylon color V3.ai

COMPANY: Coronado of Newport CLIENT:  PROOF OK AS IS  PROCEED WITH CHANGES AS MARKED  NEW PROOF REQUIRED

DESIGNER: MAD DATE: 07/18/07

JOB NUMBER: 27269

INSTALL INFO: \*  
SR: Patrice Tantam MANAGER: Erik King  
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