

**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 Monday, April 28, 2008

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Item 1: Development Plan Review No. DP2007-004 (PA2007-245)  
1800 West Coast Highway

Request to review and approve proposed Orange County Sanitation District Job No. 5-50, Replacement of the Rocky Point Pump Station, for consistency with the Mariner's Mile Design Framework and other applicable ordinances and policies. The project consists of a new wastewater pump station that will include one above-grade structure that will house electrical equipment, a second above-grade structure that will house a generator and a below-grade structure that will house the pumps. The new structure will be located on property at the inland side of West Coast Highway.

This item was reviewed and approved. Council District 3

Item 2: Lot Line Adjustment No. LA2008-002 (PA2008-044)  
1602 East Coast Highway

Request to allow the adjustment of the property line between two parcels of land by taking the land from one parcel and attaching it to the other. There will be no change in the number of parcels.

This item was continued to the 05/12/08 Modifications Hearing. Council District 5

Item 3: Modification No. MD2008-021 (PA2008-050)  
3101 & 3111 Third Avenue

Request to permit an addition of between 25% and 50% to the second floor of an existing nonconforming duplex. There will be no net increase in the total number of habitable rooms. The duplex is nonconforming since it provides one parking space per unit where the Zoning Code requires two spaces per unit.

This item was approved. Council District 2

Item 4: Modification No. MD2008-022 (PA2008-056)  
2305 Pacific Drive

Request to permit encroachment along the east side property line of 48 linear feet of a shoring/retaining wall system, including 7 caissons approximately 30 inches in diameter. The proposed shoring system will encroach 48 inches into 4-foot required side yard setback.

Withdrawn by applicant

Council District 6

Item 5: Modification No. MD2008-023 (PA2008-059)  
4539 Perham Road

Request to permit the following encroachments into the required 30-foot front yard setback adjacent to Camden Drive: a combination fence atop a planter wall encroaching a maximum 27 feet, portions of an infinity trough encroaching a maximum 21 feet 4 inches, and portions of the edge of a pool encroaching a maximum 18 feet 4 inches. The greater portion of the combination fence atop planter wall is 5 feet high above natural grade and is required by the Building Department to provide security for the proposed pool. The height of the elements will not exceed the patio deck elevation (100.55 feet).

This item was approved.

Council District 1

Prepared and submitted by:



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*)  
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*)

(Santa Ana Heights Project Advisory Committee) Mail Hard Copy  
Rick Dayton  
PAC Development Subcommittee Chairman  
2900 Silver Lane, Newport Beach, CA 92660



**Development Plan NO. DP2007-004**  
 (PA2007-245)

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

<b>Application No.</b>	<b>Development Plan No. DP2007-004</b> <b>(PA2007-245)</b>
<b>Applicant</b>	<b>Orange County Sanitation District</b>
<b>Site Address</b>	<b>1800 West Coast Highway</b>
<b>Legal Description</b>	<b>PM 59-6, Parcel 1, portion of Parcel</b>

On **April 28, 2008**, the Zoning Administrator, on behalf of the Planning Director, reviewed and approved the proposed Orange County Sanitation District Job No. 5-50, Replacement of the Rocky Point Pump Station, for consistency with the Mariner's Mile Design Framework and other applicable ordinances and policies. The project consists of a new wastewater pump station that will include one above-grade structure that will house electrical equipment, a second above-grade structure that will house a generator and a below-grade structure that will house the pumps. The new structure will be located on property at the inland side of West Coast Highway. The property is located in the RSC-MM District. The Zoning Administrator's approval is based on the information below and is subject to the following conditions.

Section 20.57.050 of the Newport Beach Zoning Code states that new or substantially-altered development shall be reviewed for consistency with adopted design policies contained within the Mariner's Mile Design Framework in order to implement the goals and objectives of the Design Framework and preserve and promote the health, safety, and general welfare of the community by achieving the following purposes:

1. To assure that development of properties in Mariner's Mile Overlay Area will not preclude attainment of the General Plan objectives and policies.
  - The Land Use Element of the General Plan designates the site for "Public Facilities" use. The proposed project is consistent with this designation.
  - The project is consistent with future use of the public right-of-way and policies contained within the Circulation Element of the General Plan titled

- “Integration of Transportation Systems with Adjoining Communities and the Region” (CE3.1.2), and “Regional Consistency” (CE3.1.3).
- The Zoning Code designates this site as RSC-MM (Retail Service Commercial-Mariner’s Mile Overlay). The proposed project is consistent with this designation, since it is a minor public utility project, a permitted use within the RSC district.
2. To protect and preserve the value of properties and to encourage high quality development thereof in Mariner’s Mile Overlay area where adverse effects could result from inadequate and poorly planned development and from failure to preserve where feasible natural landscape features, open spaces, and the like, and will result in the impairment of the benefits of occupancy and use of existing properties in such area.
- The pump station structures will be constructed of high quality materials and is similar in design to complement the Orange Coast College structures located across West Coast Highway, south of the subject property.
  - The proposed pump station structures are located within the northwest corner of the developed portion of the property proximal to the easterly end of the “Pelican Wall” retaining wall constructed at the base of the bluff.
  - Noise generated by the functioning of the pumps will be mitigated by providing acoustical louvers at any openings in the walls of the structures diverting the sound away from the residential uses above, and by locating the pump systems below ground in a dry well.
3. To ensure that the public benefits derived from expenditures of public funds for improvement and beautification of streets and public facilities within Mariner’s Mile Overlay Area shall be protected by the exercise of reasonable controls over the layout and site location characteristics of private buildings, structures and open spaces.
- Improvements and public facilities, such as the “Pelican Wall”, and street improvements, will be protected during construction. The pump station structures are set back from the West Coast Highway property line and situated at the base of the bluff.
  - Landscaping, in accordance with the Design Framework, will be provided along the front property line adjacent to West Coast Highway.
4. To promote the maintenance of superior site location characteristics adjoining Coast Highway, a thoroughfare of city wide importance; to ensure that the community benefits from the natural terrain, harbor and ocean; and to preserve

and stabilize the grounds adjoining said thoroughfare, and to preserve and protect the property values in said areas.

- Although the pump structures will be located at the base of the existing bluff, the bluff will still be visible behind and above the proposed pump facility structures.
- The proposed pump station structures are located at the northwest corner of the developed portion of the subject property allowing possible future development to occur on the remainder of the site to the west.
- The structures are sited easterly of the existing Pelican Wall

Architectural guidelines set forth in the “Mariner’s Mile Strategic Vision and Design Framework” that promote achievement of policies of the Mariner’s Mile Overlay District are indicated below.

*Architecture – Building designs should be “five-sided”, meaning that attention to design of the roof is important and buildings should respect views from above. Responsible and sensitive designs which respect and “fit in” to the surroundings is encouraged.*

- The pump station structures are designed with arced roofs made of copper materials, which will age over time and will not be obtrusive when viewed from neighboring properties located above at the rear of the property.
- The structures are small and the design is similar to and will compliment the architecture of the Orange Coast College buildings located directly across West Coast Highway. They are also designed to complement the future structure planned for phase two development of the easterly side of the property.

*Site planning considerations – The guidelines encourage buildings to be oriented toward the street and to promote pedestrian connections and amenities*

- The proposed project is oriented toward the street; but, more importantly, does not project beyond the “Pelican Wall” and maintains the existing pedestrian connection along Coast Highway.

*Color and Materials Palette – The Design Framework establishes a basic color scheme where the building color is neutral and is approximately 90% of the building.*

- The outside walls of the pump station structures are constructed with a neutral color block similar to the materials used in the construction of the Orange Coast College buildings located across West Coast Highway.

*Landscaping – The Design Framework establishes landscape guidelines which are also incorporated into the Zoning Code. Those requirements are listed below:*

1. *A minimum 4-foot wide planting area with a hedge and palm row at the back of the sidewalk along West Coast Highway.*

The project provides the required planting area and an irrigation plan for maintaining the plantings, with the exception of that portion of the project that may encroach into the 12-foot Coast Highway setback.

2. *Interior parking lot landscaping.*

The proposed pump station project is Phase One of two planned phases. The parking lot in Phase Two will be developed with a building constructed above the parking lot. A condition regarding the landscaping within the parking lot is included in the Conditions of Approval.

3. *Bluff landscaping incorporating plant materials from a specific palette of species.*

The required landscaping for the bluff is existing. The proposed project includes adding irrigation, controllers, timers, and sensors.

4. *Signs – The Design Framework establishes sign guidelines which are also incorporated into the Zoning Code.*

No signage is proposed at this time; a condition requiring compliance with sign standards is included in the Conditions of Approval.

5. *Lighting – The Design Framework states that lighting should be “purposeful and respectful”.*

The project lighting plan provides lighting at the doorway of the pump station structures only. Those lighting fixtures direct lighting downward only and will not impact neighboring properties.

6. *Walls – The design Framework specifies the use of split-face block, textured concrete or crib-wall systems with landscaping for retaining walls.*

There are no new walls proposed with the project.

*7. Site Access and Lot Consolidation – The Design Framework encourages the consolidation of lots and elimination of drive approaches to reduce potential vehicle conflicts.*

The site currently has two vehicular access points, which will remain. No lot consolidation will occur at this time. Phase Two construction will require lot consolidation, unless otherwise approved by the Planning Department and/or the City Council.

### **Conditions of Approval**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project shall be revised to delete the encroachment of or below ground structures within the future public right of way (12-foot front setback), unless approved by the Public Works Department or the City Council.
3. All future proposed signs shall be in conformance with the Chapter 20.67 of the Zoning Code.
4. Develop Plan No. 2007-245 shall expire unless exercised within 24 months from the date of approval as specified in section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. 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.
7. Section 20.42.50.M.2 states “Uncovered parking spaces on-grade shall have interior landscaping in the form of one (1) tree per every 4 parking spaces shall be provided within the parking area. Palm trees should be used for properties located adjacent to the Bay and shade trees should be used for inland properties.” This requirement of the Zoning Code shall be required when plans for phase two of the project are submitted for Planning Department review of the required development plan submittal.

Prepared by:

Submitted by:



Fern Nueno, Planning Technician

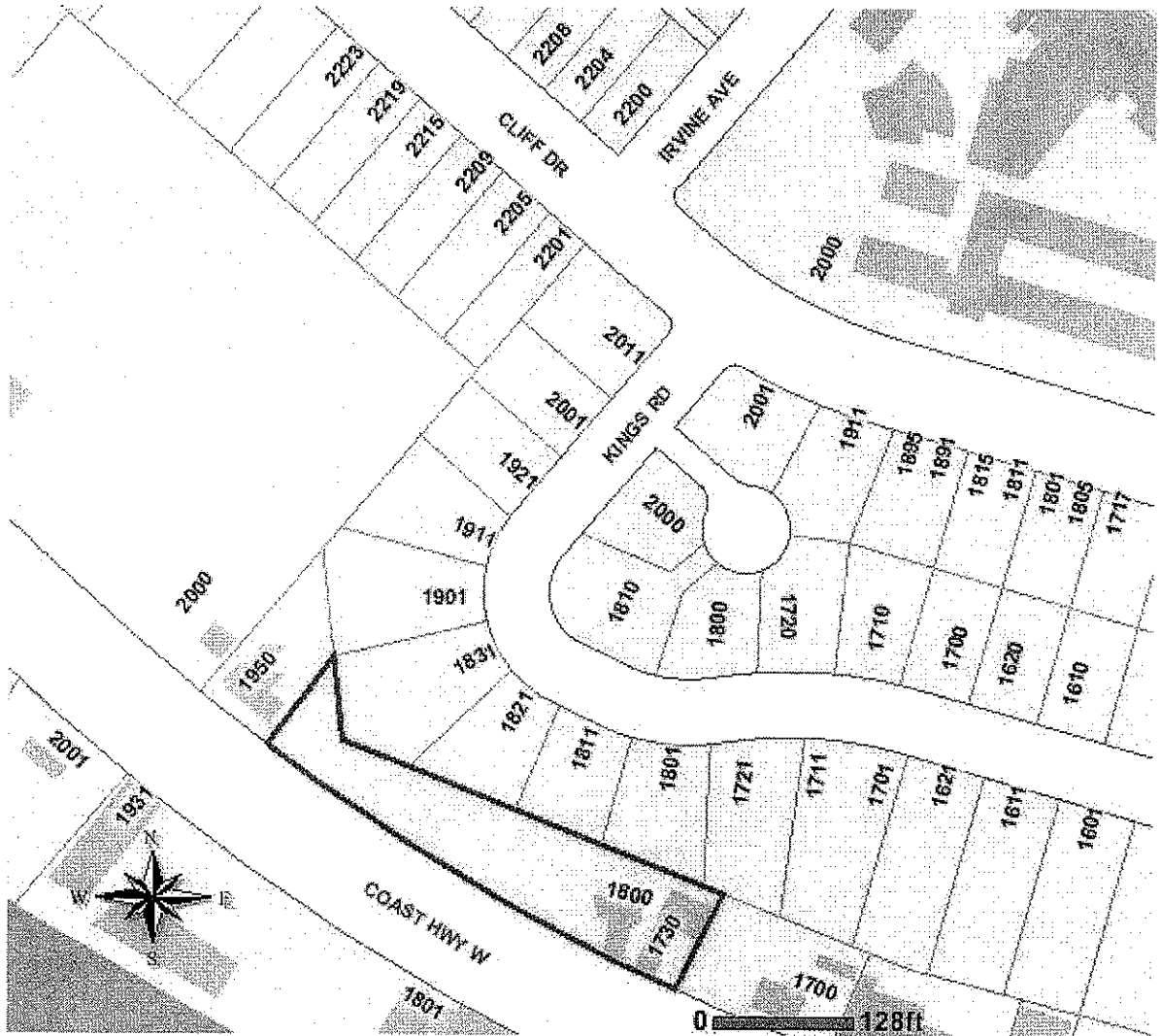


Javier S. Garcia, Zoning Administrator

Attachments: Vicinity Map



# VICINITY MAP



Development Plan No. DP2007-004  
PA2007-245

**1800 West Coast Highway**



provided there is no net increase in the number of habitable rooms and upon approval of a Modification Permit.

- The proposed increase in gross floor area does not exceed 50 percent of the existing gross floor area and there is no net increase in the number of habitable rooms.
- The project provides one enclosed parking space per unit.

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 duplex is nonconforming since it provides one parking space per unit where Section 20.62 of the Zoning Code requires two spaces per unit. Section 20.62 of the Zoning Code permits the addition to an existing legal nonconforming structure by up to 50 percent of the gross floor area with the approval of a Modification Permit.
- The proposed increase in gross floor area does not exceed 50 percent of the existing gross floor area and there is no net increase in the number of habitable rooms.
- The existing structure and development standards can not accommodate the addition of on-site parking spaces as required in Section 20.66 without substantial reconstruction of the building.

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 is consistent with the neighborhood's development regulations, as provided in Section 20.10.040, in regard to floor area, height and design.
- The proposed increase in gross floor area does not exceed 50 percent of the existing gross floor area and there is no net increase in the number of habitable rooms or bedrooms.

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 addition is consistent with the neighborhood's development regulations, as provided in Section 20.10.040, in regard to floor area, height and design.
- The proposed increase in gross floor area does not exceed 50 percent of the existing gross floor area and there is no net increase in the number of habitable rooms or bedrooms.

- The proposed addition maintains the use of the structure and parcel as intended by the Zoning Code and in accordance the provisions of the Two Family Residential (R-2) District.

### **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 is 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. A building permit shall be obtained prior to commencement of the construction.
7. 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.
8. The additional floor area granted by this Modification Permit shall not exceed a 50 percent increase of the existing floor area of the existing structure and shall comply with all other development standards of the Zoning Code not expressly addressed in this Modification Permit.
9. That one garage space shall be allocated and maintained accessible for the parking of vehicles at all times for each dwelling unit.
10. All temporary or accessory materials related to the parcel or structure must be removed from the public right-of-way. Also, the 5-foot rear yard abutting the alley must be clear of all obstructions.

11. The project shall be designed so that the units are separated by a continuous vertical plane from grade to rooftop.
12. The proposed addition and related work shall comply with the California Building Code and all adopted local amendments.
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: cs/rm

Attachments: Vicinity Map

Appeared in Opposition: M. Willis, 3210 3<sup>rd</sup> Avenue  
M. Chalmas, 610 Larkspur Avenue

Appeared in Support: None





**MODIFICATION PERMIT NO. MD2008-023**  
(PA2008-059)

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

<b>Application No.</b>	<b>Modification Permit No. MD2008-023 (PA2008-059)</b>
<b>Applicant</b>	<b>Nanci Glass</b>
<b>Site Address</b>	<b>4539 Perham Road</b>
<b>Legal Description</b>	<b>Lot 117, Tract 3357</b>

On **April 28, 2008**, the Zoning Administrator approved the application request to permit the following encroachments into the required 30-foot front yard setback adjacent to the slope area abutting Camden Drive: a combination fence atop a planter wall encroaching a maximum 27 feet, portions of an infinity trough encroaching a maximum 21 feet 4 inches, and portions of the edge of a pool encroaching a maximum 18 feet 4 inches. The greater portion of the combination fence atop planter wall is 5 feet high above natural grade and is required by the Building Department to provide security for the proposed pool. The height of the elements will not exceed the patio deck elevation (100.55 feet). The property is located in the R-1-B 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 and proposed single family residential structure is consistent with this designation. The proposed elements 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 Zoning Code allows swimming pools within any required yard space.

- The Zoning Code allows fences and walls within a required front yard setback, but does not allow them to exceed 3-feet in height above natural grade.
  - The Uniform Building Code requires a minimum 5-foot high fence measured from natural grade as protection for the proposed pool.
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 an irregularly shaped through lot with the narrowest lot line located at the rear of the property adjacent to Camden Drive. While the greater portion of the property is flat, the rear one-third slopes steeply down to Camden Drive.
  - The property has a required 6-foot front yard setback along Perham Road, and a second required front yard setback of 30 feet at the rear, view side of the property along Camden Drive.
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 pool edge, infinity trough, and fence atop planter wall are structures permitted within any required setback and are structures found within this 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 pool and infinity trough will be located at the rear, view side of the property. The required 30-foot front yard setback has a grade change of approximately 13 feet from the curb along Camden Drive to the top of the slope. The combination fence atop the planter wall will be approximately 9 feet below the top of the slope.
  - The combination fence atop planter wall for pool protection will be constructed of an opaque material or wrought iron and will provide pool security as required by the Uniform Building Code.
  - Portions of the edge of the pool and infinity trough exceeding the height limit within the required 30-foot front yard setback are minor in nature.
  - The proposed encroachments are located within the rear of the property facing Camden Drive and will not affect neighboring properties.
  - 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. The following elements shall be allowed to encroach into the required 30-foot front yard setback: combination fence atop planter wall to a maximum 27 feet, portions of the pool edge to a maximum 18 feet 4 inches, and portions of the infinity trough to a maximum 21 feet 4 inches. The height of these elements shall not exceed an elevation of 100.55 feet.
3. Anything not specifically approved by this Modification Permit is prohibited and must be addressed in a separate and subsequent Modification Permit review.
4. The unused curb cut for the driveway on Perham Road shall be plugged per City standards.
5. The driveway on Camden Drive shall be designed to provide adequate vehicular sight distance requirements, subject to review and approval by the Public Works Department.
6. All on-site drainage shall comply with the City's latest water quality requirements.
7. No structural elements shall encroach into the public right-of-way.
8. If any of the existing public improvements surrounding the site is 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.
9. 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.
10. 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.

11. A building permit shall be obtained prior to commencement of the construction.
12. 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.
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.
15. The proposed addition and related work shall comply with the California Building Code and all adopted local amendments.

#### **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

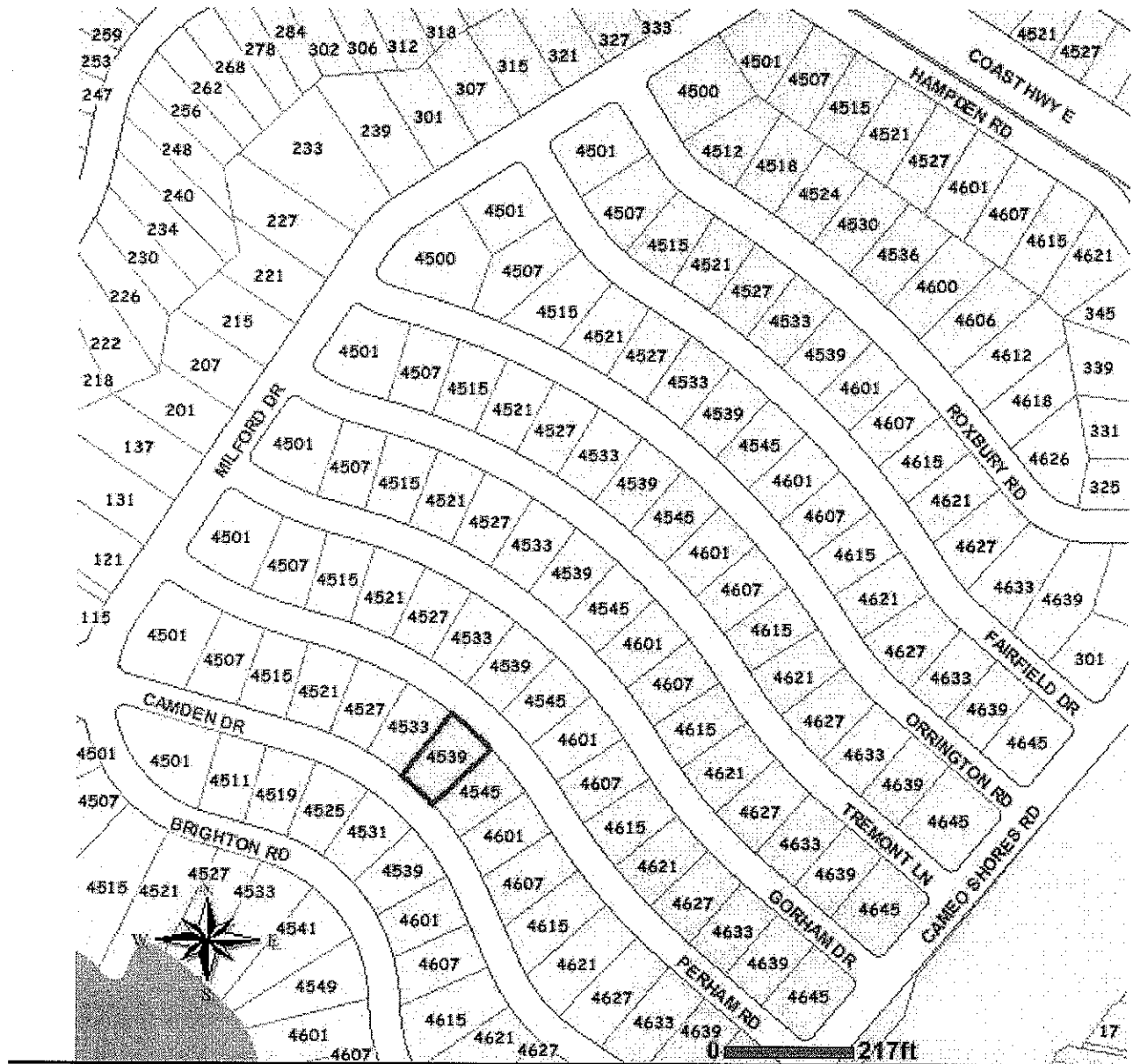
JSG:ks/rm

Attachments: Vicinity Map

Appeared in Opposition: J. Karslen, 4533 Perham Road

Appeared in Support: None

# VICINITY MAP



Modification Permit No. MD2008-023  
PA2008-059

**4539 Perham Road**