



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending October 29, 2021.

ZONING ADMINISTRATOR ACTIONS OCTOBER 28, 2021

- Item 1: SMA Muir Beach LLC Tentative Parcel Map No. NP2021-013 (PA2021-216)
Site Address: 15 Muir Beach Circle
Action: Approved by Resolution No. ZA2021-058 Council District 7
- Item 2: CDM Properties, LLC Residential Condominiums Tentative Parcel Map No. NP2021-014 (PA2021-227)
Site Address: 417 and 417 ½ Narcissus Avenue
Action: Approved by Resolution No. ZA2021-059 Council District 6

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

- Item 1: Park Newport Rockfall Mitigation Project - Emergency Coastal Development Permit No. CD2021-066 (PA2021-256)
Site Address: 5000 Park Newport Drive (APN 440 132 52)
Action: Approved Council District 4

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2021-058

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2021-013 TO SUBDIVIDE AN EXISTING PARCEL TO AN UNDERLYING TRACT CONFIGURATION OF TWO PARCELS LOCATED AT 15 MUIR BEACH CIRCLE (PA2021-216)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by SMA Muir Beach, LLC (Applicant), with respect to property located at 15 Muir Beach Circle, and legally described as Parcel 1 of Resubdivision No. 553, in the City of Newport Beach, County of Orange, State of California as shown on parcel maps, in Book 103, Page(s) 35, of parcel maps in the Office of the County Recorder of said county, requesting approval of a tentative parcel map.
2. The applicant requests approval of a tentative parcel map to subdivide an existing parcel to an underlying tract configuration of two parcels. No new construction is proposed as part of this project. No waivers of Title 19 (Subdivisions) are proposed. The tentative parcel map would allow for the future development of a single-family residence on each parcel.
3. The subject property is located within the PC-3 (Harbor View Hills Planned Community) Zoning District and the General Plan Land Use Element category is RS-D (Single Unit Residential Detached).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on October 28, 2021, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was

not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The subject property is a squarely shaped parcel with a less than 20 percent slope. The Tentative Parcel Map is for two new single-family residences, conforms to the General Plan land use and Zoning Code development standards, and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings provided by [Section 19.12.070 \(Required Findings for Action on Tentative Maps\)](#) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is to subdivide an existing parcel to an underlying tract configuration of two (2) parcels. A single-family residence will be demolished and two (2) new single-family residences will be constructed on each parcel.
2. The property is designated as single unit residential detached (RS-D) by the General Plan and is located in the Harbor View Hills (PC-3) Zoning District. These designations allow for a range of detached single-family residential dwellings. The newly created parcels will be consistent with this designation and the tentative parcel map. Future development of each project site will be required to comply with the Zoning Code standards.
3. General Plan Policy LU4.2 (Prohibition of New Residential Subdivisions) prohibits new residential subdivisions that would result in additional dwelling units unless authorized by an amendment of the General Plan. Lots that have been legally merged through the Subdivision Map Act and City Subdivision Code are exempt and may be re-subdivided to the original underlying legal lots. In this case, the subject property has been previously merged under Resubdivision No. 553 and will be re-subdivided to the original underlying legal lots of Tract Map No. 7386. Therefore, this subdivision is exempt from the requirement for a General Plan amendment in accordance with Policy LU4.2.
4. The subject property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a single-family residential development on each parcel once it is subdivided because it is regular in shape with a less than 20 percent slope. A single-family residence will be demolished and two new single-family residences will be constructed on each parcel.
2. The subject property is a less than 20 percent sloping lot and measures approximately 23,985 square feet in area. Each newly created parcel will meet the minimum lot size of 6,000 square feet in area for the PC-3 Zoning District.
3. The PC-3 Zoning District does not discuss a minimum lot width requirement. Therefore, all applicable provisions and requirements of the Newport Beach Municipal Code apply. The newly created parcels conform to the minimum lot width standard for the R-1 (Single-Family Residential) zoning district of 50 feet. In this case, Parcel 1 has a proposed lot width of 59.34 feet and Parcel 2 has a proposed lot width of 68.97 feet, which revert back to the original approved Tract Map No. 7386. The newly created parcels will conform to current Newport Beach Municipal Code (NBMC) requirements and will meet all Title 19 (Subdivisions) standards.
4. The subject property is accessible from Muir Beach Circle and Goleta Point Drive. The site is adequately served by existing utilities and the proposed subdivision will maintain vehicular and emergency access by maintaining existing private streets.

Finding:

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

Facts in Support of Finding:

1. A single-family residence will be demolished and two new single-family residences will be constructed on each parcel.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.

3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3) of the CEQA Guidelines – Class 15 (Minor Land Alterations).

Finding:

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

Facts in Support of Finding:

1. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. Public improvements, such as repairing and replacing broken and/or otherwise damaged sidewalk panels and curb/gutter along the Muir Beach Circle and Goleta Point Drive property frontages, protection of the existing City street tree along the Goleta Point Drive frontage, the installation of two (2) new 36-inch box street trees along the Muir Beach Circle project frontage, and removal of all private encroachments within the Muir Beach Circle frontage, including, but not limited to, walkways and decorative mailbox, will be required of the applicant per the NBMC and Subdivision Map Act.
2. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems.
3. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

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

Fact in Support of Finding:

1. The design of the two (2) new single-family residences will not conflict with the 6-foot Southern California Edison easement, the 6-foot private telephone easement, and the Spyglass Hill Community Association easement, for access through, or use of property within the proposed development.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The proposed subdivision is consistent with the R-1 (Single-Unit Residential) Zoning District, which is intended to provide for a range of detached single-family residential dwelling units, each located on a single legal lot. The tentative parcel map would allow for the future development of a single-family residence on each parcel. Therefore, the Tentative Parcel Map will contribute one (1) additional dwelling unit toward the City's regional housing needs.

Finding:

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

Fact in Support of Finding:

1. The newly created parcels will be designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code

of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2021-013, subject to the conditions set forth in Exhibit "A," which is attached here to and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

PASSED, APPROVED, AND ADOPTED THIS 28th DAY OF OCTOBER, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) of the Newport Beach Municipal Code.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. Prior to recordation of the parcel map, the existing single-unit dwelling shall be demolished.
5. Prior to the issuance of building permits for the each newly created single-unit dwelling, the parcel map shall be recorded.
6. Prior to recordation of the parcel map, park fees for one (1) additional unit shall be paid (currently \$30,217).
7. Prior to recordation of the parcel map, fair share traffic fees for one (1) additional unit shall be paid (currently \$2,579).
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Sundays or Holidays.
10. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of SMA Muir Beach, LLC Tentative Parcel Map, including, but not limited to, Tentative Parcel Map No. NP2021-013 (PA2021-216). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys'

fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

11. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
12. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (1-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
13. All improvements shall be constructed as required by Ordinance and the Public Works Department.
14. All damaged curb, gutter, and sidewalk along the Muir Beach Circle and Goleta Point Drive frontages shall be reconstructed per City Standard.
15. The existing City street tree along the Goleta Point Drive frontage shall be protected in place.
16. Two (2) new 36-inch box street trees shall be installed along the Muir Beach Circle project frontage, one (1) each per lot.
17. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
18. All private encroachments shall be removed within the Muir Beach Circle frontage, including, but not limited to, walkways and decorative mailbox.
19. The existing driveway approach along Muir Beach Circle frontage shall be plugged per City Standard STD-165.

20. All existing curb drains along Muir Beach Circle and Goleta Point Drive frontages shall be abandoned and a new curb and gutter shall be installed per City Standard STD-182.
21. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
22. All on-site drainage shall comply with the latest City Water Quality requirements.
23. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Fire Department

24. Fire sprinklers shall be installed for each newly created single-unit dwelling.

RESOLUTION NO. ZA2021-059

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING TENTATIVE PARCEL MAP NO. NP2021-014 FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 417 AND 417 1/2 NARCISSUS AVENUE (PA2021-227)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael Chegini, Manager of CDM Properties, LLC, with respect to property located at 417 and 417 1/2 Narcissus Avenue, and legally described as Lot 7, Block 440, Corona Del Mar Tract, requesting approval of a tentative parcel map.
2. The applicant requests a tentative parcel map for two (2)-unit residential condominium purposes. No waivers of development standards are requested. An existing duplex has been demolished and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is designated Two-Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on October 28, 2021, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

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

the division is consistent with the General Plan and Zoning, no variances or exceptions are proposed as part of the project, all services and access to the parcel is available, the parcel has not been divided in the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. Therefore, the proposed project qualifies under the parameters of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 19 (Subdivisions) and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of the NBMC:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The project site was previously developed with a duplex and has been cleared of existing improvements. A new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use designation.
2. The subject property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a duplex because it is relatively flat and rectangular. It was also previously developed with a duplex.
2. The subject property is accessible from both Narcissus Avenue and the alley in the rear.
3. The site is adequately served by existing utilities, as the site was previously developed with a duplex that is being replaced.

Finding:

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

Facts in Support of Finding:

1. The property is located within an existing residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines. Section 2 of this Resolution is hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. Legal access to the property is provided via Narcissus Avenue and the public alley to the rear.
2. The Public Works Department has reviewed the proposed Tentative Parcel Map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.
3. The project is conditioned to require public improvements including the reconstruction of sidewalks, curbs, and gutters along the Narcissus Avenue frontage, undergrounding of utilities, and the installation of new landscape along the Narcissus Avenue parkway, consistent with Title 19 (Subdivisions).
4. There are no existing easements either through or adjacent to the property.

Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in the R-2 Zoning District, which is intended for and permits residential uses for up to two (2) units.

Finding:

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

Facts in Support of Finding:

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

2. The project is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The proposed duplex is consistent with the R-2 Zoning District, which allows up to two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

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

Fact in Support of Finding:

1. The residential building under construction has been designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three (3) of the Coastal Act.

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2021-014, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 28 DAY OF OCTOBER, 2021.



Jaime Murillo
Zoning Administrator

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

1. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
2. The building permit for the new construction shall not be final until after recordation of the Parcel Map.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
5. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
6. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

Fire Department

7. A separate fire sprinkler system shall be installed for each individual dwelling unit.

Building Division

8. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.

Public Works Department

9. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions

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.**

10. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Subarticle 18. Monuments (1-inch iron pipe with tag) shall be set **on each lot corner** unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
11. All improvements shall be constructed as required by Ordinance and the Public Works Department.
12. Prior to recordation of the parcel map, the applicant shall reconstruct all damaged curb, gutter and sidewalk along the Narcissus Avenue frontage and all alley panels along the ally frontage per City Standard.
13. Prior to recordation of the parcel map, the existing street tree shall be protected in place along the Narcissus Avenue frontage, all private encroachments within the Narcissus Avenue frontage, including, but not limited to, walkways and fencing shall be removed, and new sod or groundcovers of a type approved by the City shall be installed throughout the Narcissus Avenue parkway fronting the subject property.
14. Prior to recordation of the parcel map, all existing overhead utilities shall be undergrounded.
15. No above ground improvements shall be permitted within the 5-foot rear alley setback.
16. Each unit shall be served by an individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
17. An encroachment permit shall be required for all work activities within the public right-of-way.
18. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
19. All on-site drainage shall comply with the latest City Water Quality requirements.
20. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.

Miscellaneous

21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
22. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of CDM Properties LLC Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2021-014 (PA2021-227). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-
8915
949-644-3200
www.newportbeachca.gov

COMMUNITY DEVELOPMENT DIRECTOR
ACTION LETTER

Subject: Park Newport Rockfall Mitigation Project (PA2021-256)
▪ Emergency Coastal Development Permit No. CD2021-066

Site Location 5000 Park Newport Drive (APN 440 132 52)

Applicant Gerson Bakar & Associates

Property Owner Park Newport Land LTD

On October 26, 2021, the Community Development Director approved Emergency Coastal Development Permit No. CD2021-066. This approval is based on the following findings and subject to the following conditions.

I. AUTHORIZED DEVELOPMENT

This emergency CDP authorizes emergency actions for the purpose of mitigating the imminent risk of rocks and debris from further eroding and falling on to Back Bay Drive to protect public safety. The project consists of the installation of tarps at three locations secured with similar color sandbags as depicted in the attached Map (Attachment No. CD 3).

II. CEQA DETERMINATION

The proposed operation is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15269 (c) (the activity is necessary to prevent or mitigate an emergency) and Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Section 15269 allows specific actions necessary to prevent or mitigate an emergency. The development is necessary to mitigate and reduce the immediate risks associated with rock, soil or other debris from falling on to Back Bay Drive during a potential rain event. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions.

FINDINGS

1. An emergency exists that requires action more quickly than permitted by the procedures for regular permits administered pursuant to the provisions of Newport

Beach Municipal Code Chapter 21.50 (Permit Application Filing and Processing), and the work can and will be completed within thirty (30) days unless otherwise specified by the terms of the permit.

Facts in Support of Finding

- a. The subject site has been subject to numerous landslides since construction of the Park Newport Development in 1969.
 - b. The property owners retained Hetherington Engineering, Inc. a professionally licensed Engineering and Geology firm to assess the risk of further slope failure and assist with remediating the landslide area. On October 22, 2021, Hetherington Engineering issued a geotechnical opinion letter (Attachment No. CD 2) that concluded there is an imminent risk of future rockfalls at the subject site due to the bluff height, steep slope ratios, poor quality bedrock and history of landslide activity. The letter further opined that the mitigation measures proposed under this permit should be installed as soon as possible.
2. Public comment on the proposed emergency action has been reviewed, if time allows.

Facts in Support of Finding

- a. Based on the imminent threat of further rock fall and debris erosion that could be exacerbated by a rain event this winter and recommendation of a licensed Geologist and Engineer that mitigation should be installed as soon as possible to protect public safety, public comment regarding this emergency action is not feasible.
 - b. Public comments previously received regarding the aesthetic impacts of tarping during prior rainy seasons were considered and a condition of approval was incorporated into this permit to ensure the sandbags used to secure the tarps are similar in color to the underlying black tarp. The use of bright contrasting colors such as orange or yellow shall be prohibited.
3. The work proposed would be consistent with the requirements of the certified Land Use Plan portion of the local government's Local Coastal Program; and

Facts in Support of Finding

- a. An emergency has occurred in which the risk of landslide and/or rockfalls has resulted in an unsafe condition that poses an imminent threat to public safety and the full use of adjacent development, Back Bay Drive, a public road providing public access to the upper Newport Ecological Preserve.
- b. The development authorized under this permit is temporary and necessary to mitigate an existing public safety hazard.

- c. A completed coastal development permit application is required to be submitted within 90 days (Condition of Approval No. 5) of the issuance of this permit to authorize the removal of the development authorized under this Emergency Coastal Development Permit or seek authorization to retain it on a permanent basis.
4. The work proposed under the emergency permit shall be the minimum amount necessary to address the emergency.

Fact in Support of Finding

- a. The scope of work for this project has been limited to mitigate only those areas that pose an imminent threat to public safety as identified by a licensed geologist. The tarps authorized under this permit will be confined to the steep slope ratio areas with exposed bedrock.
5. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Fact in Support of Finding

- a. The subject property is not located in an area in which the California Coastal Commission retains direct permit review authority in accordance with the City's Post Local Coastal Program Certification Permit and Appeal Jurisdiction map dated July 23, 2018.

III. CONDITIONS OF APPROVAL

1. Authorized development is limited to that which is specifically described in this permit and depicted in the attached plans, subject to all conditions of approval. Any changes will require a separate review and may necessitate separate authorization from the Director.
2. Any development or structures constructed or installed pursuant to this emergency coastal development permit shall be considered temporary until authorized by a follow-up regular coastal development permit and that issuance of this emergency coastal development permit shall not constitute an entitlement for the development authorized by this emergency coastal development permit.
3. Tarps shall be black in color with similar colored material used for the sandbags that secure the tarps. The use of bright contrasting colors such as orange or yellow shall be prohibited.
4. Emergency Coastal Development Permit No. CD2021-066 is valid for sixty (60) days from the date of issuance and said permit shall expire after December 25, 2021. The Director may extend an emergency permit for up to an additional sixty

(60) days for good cause including but not limited to that a coastal development permit application is on file.

5. The applicant or property owner shall submit a regular coastal development permit application consistent with the requirements of the Newport Beach Local Coastal Program within 90 days of the issuance of this emergency coastal development permit.
6. Development authorized by this emergency coastal development permit shall be removed unless a complete application for a regular coastal development permit is filed within 90 days of the approval of this emergency coastal development permit and said regular permit is subsequently approved. If a regular coastal development permit authorizing permanent retention of the development is denied, development authorized by this emergency coastal development, or the denied portion of the development, shall be removed and the site shall be restored.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Emergency Coastal Development Permit.
9. The applicant is required to obtain all applicable permits from the City's Community Development Department, Building Division and Public Works Department.
10. The Director's determination shall be reported to the California Coastal Commission and the Planning Commission.
11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Park Newport Rockfall Mitigation Project including but not limited to, Emergency Coastal Development Permit No. CD2021-066 (PA2021-256). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Seimone Jurjis

Seimone Jurjis, Community Development Director

Attachments:

- CD 1 Emergency CDP Request
- CD 2 Geotechnical Opinion Letter dated October 22, 2021
- CD 3 Project Site Plan/Map

Applicant and Permit Recipient Acknowledgement and Agreement

I hereby acknowledge that I have received a copy of this permit and that I have read and understand the permit and all conditions. I hereby agree to implement and maintain the authorized development consistent with this permit including the project description, approved site plan diagram, findings, and all conditions of approval. This is an approved and executed permit and it constitutes a contract between the City and Permittee for all purposes.

Ken Dressel, on behalf of Park Newport Land LTD



10/26/2021

Signature

Date

Attachment No. CD 1

Emergency CDP Request

From: Shawna Schaffner <sschaffner@caaplanning.com>
Sent: Thursday, October 21, 2021 5:43 PM
To: Schneider, Matthew; Campbell, Jim
Cc: Ken Dressel
Subject: Emergency CDP Request - Park Newport/Back Bay Drive - Placement of Tarp on Slope
Attachments: GIS Bluff Map.v1-1.pdf

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Matt and Jim –

CAA Planning submits this emergency CDP request on behalf of Park Newport Apartments. As you are aware, there is an existing escalating threat to public safety due to the recent failures of a bluff face below the housing development known as Park Newport. Approximately 1 inch of rain is anticipated on Monday, October 25, 2021 and with that rain is the potential for continued rockfall onto Backbay Drive, which could be a threat to public safety. The rockfall potential, taken with the anticipated rain event, is considered an imminent risk to public safety because Back Bay Drive is a popular roadway in Newport Beach providing public access to runners, cyclists, and nature enthusiasts, as well as for vehicular traffic. Also of concern are the areas of past landslide activity as it pertains to slope stability and protection of the existing residential units located atop the bluff, and building 4 in particular (401-412 at the top right corner of the attached pdf).

The tarp locations are anticipated to be placed in the areas denoted within the blue boxes on the attached pdf, with the area near building 4 to be installed first. The purpose of this emergency effort is intended to be limited to the minimum required to minimize impacts to the Back Bay Drive public right-of-way. This emergency CDP request to allow emergency actions for the purpose of protecting public safety is submitted consistent with the City's Certified LCP Implementation Plan Section 21.52.025. The project geotechnical engineer is actively preparing a letter report for the City's review, which will be submitted tomorrow morning.

We request authorization for the tarp placement to minimize the current imminent risk to public safety. Tarps will be black and will be secured with similarly colored sandbags (anticipated to be a dark green color). Due to the time-sensitivity of the need for emergency actions, a formal application is not included.

Sincerely,
Shawna Schaffner

Attachment No. CD 2
Geotechnical Opinion Letter dated Oct. 22, 2021

HETHERINGTON ENGINEERING, INC.
SOIL & FOUNDATION ENGINEERING • ENGINEERING GEOLOGY • HYDROGEOLOGY

October 22, 2021
Project No. 8564.1
Log No. 21655

Gerson Bakar and Associates
c/o Park Newport Apartments
One Park Newport Drive
Newport Beach, California 92660

Attention: Mr. Jim Diaz
Facilities Manager

Subject: TEMPORARY TARP PLACEMENT
Coastal Bluff – Park Newport Apartments
One Park Newport Drive
Newport Beach, California

References: Attached

Dear Mr. Diaz:

In accordance with the request of Ms. Pua Whitford of CAA Planning, Hetherington Engineering, Inc. has prepared this letter regarding temporary tarp placement on selected portions of the coastal bluff at the subject site.

We understand Park Newport Apartments intends to place the annual slope erosion protection tarps for the 2021-2022 rainy season. The National Weather Service has predicted the first significant rainfall event of this season for Monday, October 25, 2021. In past years the tarps (slope protection) would be installed prior to this event.

The subject natural slope is a coastal bluff that descends to Back Bay Drive along the eastern edge of Upper Newport Bay in Newport Beach, California. The slope descends at slope ratios of 0.5:1 to 1.5:1 (horizontal to vertical) to locally vertical with a maximum height of approximately 90-feet. This coastal bluff was left in a natural condition at the time of grading/construction of Park Newport Apartments in 1969. The slope exposes 10 to 15-feet of Quaternary terrace deposits over Miocene Monterey Formation bedrock. Numerous older landslides that exist on this slope were identified by LeRoy Crandall and Associates, and since construction in 1969, the slope has been subjected to on-going erosion, surficial instability, rockfalls, and landslides.

Due to the height, steep slope ratio, existing landslides, and poor quality bedrock exposed on the coastal bluff, factors of safety for gross and surficial slope stability are less than 1.5.

TEMPORARY TARP PLACEMENT

Project No. 8564.1

Log No. 21655

October 22, 2021

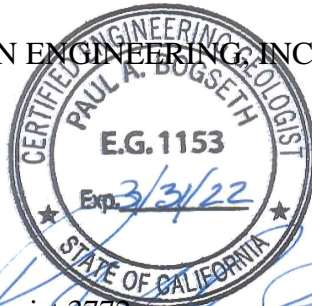
Page 2

The coastal bluff slope is considered grossly and surficially unstable from an engineering geologic and geotechnical engineering perspective.

There is an increased risk of impacts to Back Bay Drive and the public, if the slope protection is not installed prior to significant rainfall. From a geotechnical perspective, plastic erosion control tarps should be installed as soon as possible to reduce the risk to the public and Back Bay Drive.

This opportunity to be of service is appreciated. If you have any questions, please contact our office.

Sincerely,
HETHERINGTON ENGINEERING, INC.



Paul A. Bogseth
Professional Geologist 3772
Certified Engineering Geologist 1153
Certified Hydrogeologist 591
(expires 3/31/22)

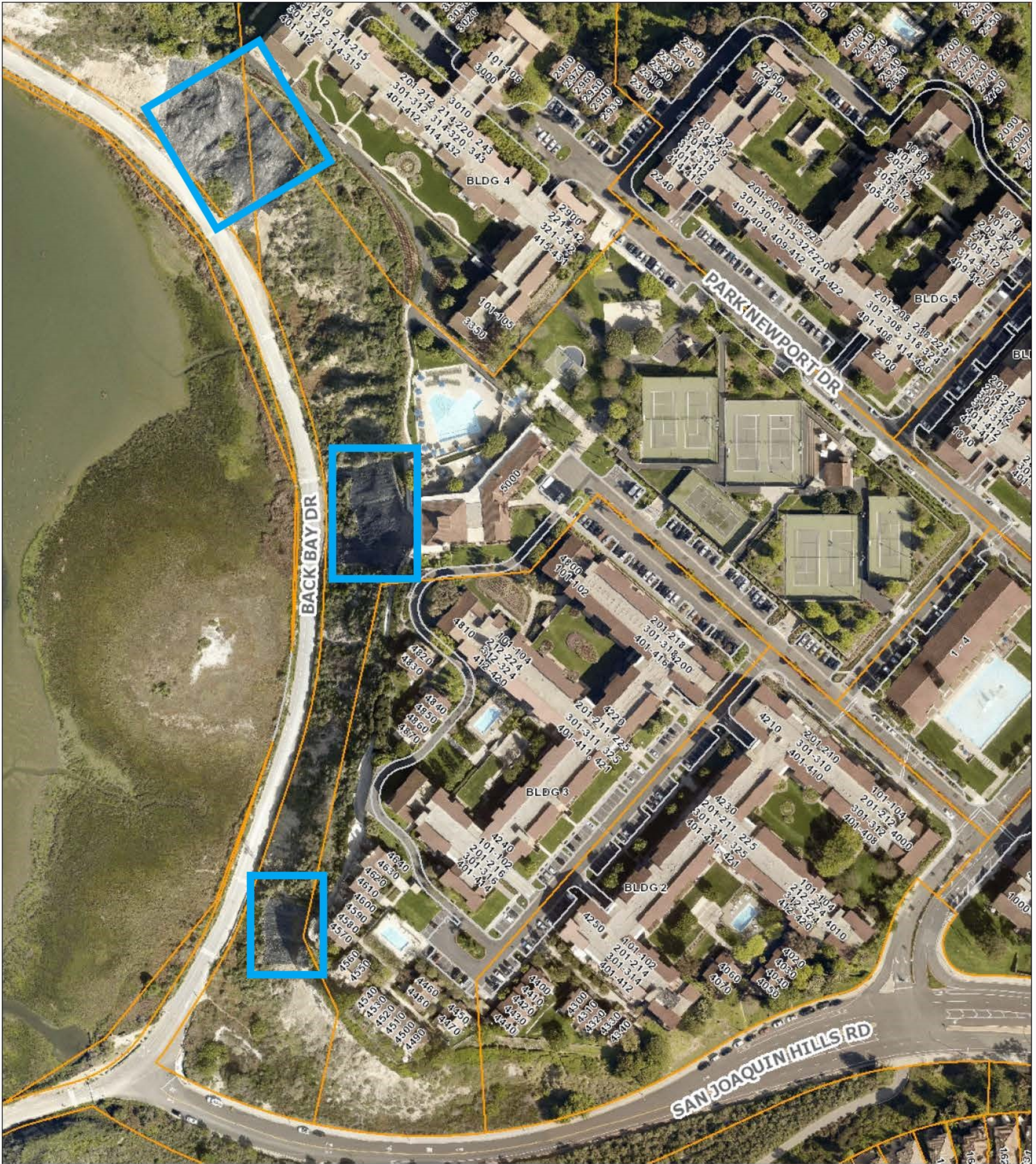
Distribution: 1-via e-mail Mr. Jim Diaz (jdiaz@gb-a.com)
1-via e-mail Ken Dressel (Kdressel@gb-a.com)
1-via e-mail Shawna Schaffner (sschaffner@caaplanning.com)
1-via e-mail Pua Whitford (pwhitford@caaplanning.com)

REFERENCES

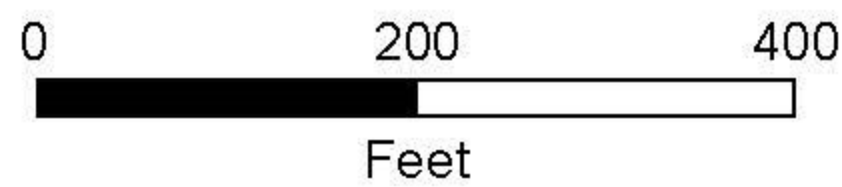
1. “Findings and Conditions of Approval for Coastal Development Permit No CD2021-001 (PA2021-099) 1 Park Newport”, by City of Newport Beach Public Works Department, dated May 17, 2021.
2. “Project Review Request, Community Development Department, Planning Division, Park Newport Slope Stabilization, 1 Park Newport”, notes by Tonee Thai, dated May 18, 2021.
3. “Notice of Incomplete Filing, Application No. Coastal Development Permit 2021-001(PA2021-099), Park Newport” by City of Newport Beach Community Development Department, Planning Division, dated May 20,2021.
4. “Project Review Request, Community Development Department, Planning Division, Park Newport”, notes by Sergio Gutierrez, dated May 24, 2021.
5. “Response to Coastal Development Permit Comment, One Park Newport Drive, Newport Beach, California, CDP-2021-001 (PA2021-099)”, by Hetherington Engineering, Inc., dated June 8, 2021.

Attachment No. CD 3

Project Site Plan/Map



NBGiS
NEWPORT BEACH



Disclaimer:
Every reasonable effort has been made to assure the accuracy of the data provided, however, The City of Newport Beach and its employees and agents disclaim any and all responsibility from or relating to any results obtained in its use.