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To: [Westmoreland, Liz](#); [Shumway, Lena](#); [City Clerk's Office](#)
Cc: [Rebecca Davis](#); [Hayley Uno](#); [Leslie Reider](#); [Emy Lipkind](#)
Subject: Comment Re: 300 Newport Center Drive Condominiums Project (Project File No. PA2025-0102)
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Attachments: [2026.04.27 Comment on 300 Newport Center Dr.pdf](#)

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Dear Mayor Kleiman, Mayor Pro Tem Blom, Honorable Councilmembers, Ms. Westmoreland, and Ms. Shumway:

I hope this email finds you well. Attached please find comments of Supporters Alliance for Environmental Responsibility ("SAFER") related to SAFER's appeal of the 300 Newport Center Drive Condominiums Project (Project File No. PA2025-0102). SAFER's appeal of the Project is scheduled to be considered by the City Council tomorrow at its April 28, 2026 meeting as Agenda Item 14.

Please let me know if you have any questions or concerns. Thank you for your time. Have a wonderful day!

Sincerely,

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April 27, 2026

VIA EMAIL

Lauren Kleiman, Mayor
Noah Blom, Mayor Pro Tem
Michelle Barto, Councilmember
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**Re: Comment in Support of Appeal on 300 Newport Center Drive
Condominiums; April 28, 2026, City Council Agenda Item 14**

Dear Mayor Kleiman, Mayor Pro Tem Blom, and Honorable Councilmembers:

This comment is submitted on behalf of Supporters Alliance for Environmental Responsibility ("SAFER"), in support of SAFER's appeal regarding the 300 Newport Center Drive Condominiums project ("Project"), scheduled to be heard by the Newport Beach City Council on April 28, 2026, as Agenda Item 14.

SAFER objects to the City's decision to exempt the Project from further environmental review under the California Environmental Quality Act ("CEQA") based on CEQA Guidelines Section 15183 ("Projects Consistent with a Community Plan, General Plan, or Zoning"). Further CEQA review is necessary because the Project is likely to have one or more peculiar and significant impacts not discussed or analyzed in the City's General Plan Housing Implementation Program EIR ("GPHIP EIR"), thereby necessitating preparation of an EIR. Specifically, SAFER's expert report prepared by Dr. Shawn Smallwood indicates the Project may result in significant impacts on biological resources that were not analyzed or mitigated by the GPHIP EIR. Dr. Smallwood's comments and CV are attached hereto as Exhibit A.

SAFER respectfully requests that the City Council grant the appeal and decline to approve the Project until an EIR is prepared to analyze and mitigate the Project's environmental impacts.

PROJECT DESCRIPTION

The Project includes the demolition of the Regal Edwards Big Newport movie theater and the Body Design health and fitness center. In its place, the applicant proposes construction of two 22-story residential buildings (270 feet in height), consisting of 150 market-rate condominiums, on-site amenities, for-sale home offices, retail and café space, and 343 parking spaces. The Project provides no affordable housing units. Each residential building is nearly identical and is connected through a podium that contains the home office, retail and café, amenities, parking, and building support facilities. The Project applicant is requesting a major site development review, conditional use permit, and vesting tentative tract map.

LEGAL STANDARD

CEQA mandates that “the long-term protection of the environment . . . shall be the guiding criterion in public decisions” throughout California. (Pub. Res. Code (“PRC” § 21001(d).) To achieve its objectives of environmental protection, CEQA has a three-tiered structure. (14 Cal. Code Regs. (“CCR”) § 15002(k); *Committee to Save the Hollywoodland Specific Plan v. City of Los Angeles* (2008) 161 Cal.App.4th 1168, 1185-86.) First, if a project falls into an exempt category, or it can be seen with certainty that the activity in question will not have a significant effect on the environment, no further agency evaluation is required. (*Id.*) Second, if there is a possibility the project will have a significant effect on the environment, the agency must perform an initial threshold study. (*Id.*; 14 CCR § 15063(a).) If the study indicates that there is no substantial evidence that the project or any of its aspects may cause a significant effect on the environment the agency may issue a negative declaration. (*Id.*; 14 CCR §§ 15063(b)(2), 15070.) Finally, if the project will have a significant effect on the environment, an EIR is required. (*Id.*) CEQA contains a strong presumption in favor of requiring a lead agency to prepare an EIR. This presumption is reflected in the fair argument standard. Under that standard, a lead agency must prepare an EIR whenever there is substantial evidence in the whole record before the agency that supports a fair argument that a project may have a significant effect on the environment. (PRC § 21082.2; *Laurel Heights Improvement Ass’n v. Regents of the University of California* (1993) 6 Cal.4th 1112, 1123; *No Oil, Inc.*, 13 Cal.3d at 75, 82; *Quail Botanical Gardens v. City of Encinitas* (1994) 29 Cal.App.4th 1597, 1602.)

CEQA Guidelines Section 15183 provides an exemption for projects that are consistent with the development density established by existing zoning, community plan, or general plan policies for which an EIR was certified, except as necessary to evaluate whether there are project-specific significant impacts which are peculiar to the project or project site. (14 CCR § 15183(a).)

When relying on section 15183 to approve a project, a lead agency may not forgo further analysis of potentially significant impacts unless it makes certain findings. An agency is required to perform further analysis for impacts that: (1) are peculiar to the proposed project or parcel, (2) were not analyzed as significant effects in a prior EIR for the zoning, community, or general plan with which the project is consistent, (3) are potentially significant off-site or cumulative impacts

that were not discussed in the prior EIR, or (4) are previously identified significant impact which, due to substantial new information not known at the time the EIR was certified, are determined to have a more severe impact than discussed in the prior EIR.

Under section 15183(f), an effect of a project on the environment is not considered peculiar to the project or project site if “uniformly applied development policies or standards have been previously adopted ... with a finding that the development policies or standards will substantially mitigate the environmental effect when applied to future projects, unless substantial new information shows that the policies or standards will not substantially mitigate the environmental effect.” (14 CCR § 15183(f).)

Agency determinations under Guidelines section 15183 are reviewed under the substantial evidence standard. (*Lucas v. City of Pomona* (2023) 92 Cal.App.5th 508, 538, citing *Concerned Dublin Citizens v. City of Dublin* (2103) 214 Cal.App.4th 1301, 1311.) In determining whether an agency’s findings concerning the use of a statutory exemption from CEQA may be upheld, courts must review the administrative record to see that substantial evidence supports each element of the exemption. (*Lucas*, 92 Cal.App.5th at 538.) This includes the determination that “uniformly applied development policies or standards” will substantially mitigate the project’s environmental effects. (14 CCR § 15183(f).) Agency findings must specifically address the effect of uniform policies and standards on potential environmental impacts. (*Hilltop Group v. County of San Diego* (2024) 99 Cal.App.5th 890, 918.)

Here, there is substantial evidence demonstrating that the Project will have an unmitigated, peculiar and significant biological resources impact that was not addressed in the GPHIP EIR. Section 15183 therefore requires preparation of an EIR to analyze and mitigate this impact.

I. THE PROJECT WILL HAVE A SIGNIFICANT, UNMITIGATED IMPACT ON BIOLOGICAL RESOURCES THAT IS PECULIAR TO THE PROJECT AND NOT ANALYZED IN THE GPHIP EIR.

Attached hereto as Exhibit A are the expert comments of wildlife ecologist Shawn Smallwood, Ph.D. Dr. Smallwood's analysis provides substantial evidence that the Project will cause significant impacts to special-status birds that are peculiar to the Project and were not analyzed as significant in the GPHIP EIR. Further CEQA review is required to analyze and mitigate these impacts.

The Project proposes two 270-foot tall buildings. As Dr. Smallwood explains, structures of this height occupy a substantial portion of the aerosphere—essential habitat for birds. (Ex. A, p. 1.) Birds utilize the aerosphere for migration, dispersal, patrolling home ranges, commuting between roost sites and foraging areas, courtship, and in some species, copulation. (*Id.* at 2.)

The Project would expose birds to extensive window surfaces comprising large portions of the buildings’ facades at elevations actively used by avian species, resulting in harm to thousands of birds annually. This is neither a minor nor theoretical concern. Window collisions

rank as the second or third largest source of anthropogenic bird mortality, and Dr. Smallwood has reviewed extensive studies documenting substantial avian fatalities from such collisions. (*Id.* at pp. 2-4.) In one study, 266 bird fatalities representing 41 species occurred over 73 months of monitoring at just a three-story glass walkway. (*Id.* at p. 2.) Building facades also intercept and kill numerous birds flying during daylight hours as well as nocturnal migrants. (Ex. A, p. 3.) A 2009 study by Klem et al. monitored 73 building facades in New York City during 114 days of two migratory periods and documented 549 collision victims. (*Id.*) A 2015 study by Parkins et al found 35 bird fatalities of 16 different species within just 45 days of monitored under four building facades. (*Id.*) Numerous other peer-reviewed studies demonstrate similarly severe impacts from avian collisions with windows and building facades. (See Ex. A, pp. 3-4.)

Given the Project's location within the Pacific Flyway its design featuring two high-rise buildings, "avian use of the aerosphere should be of concern." (*Id.* at p. 4.) Dr. Smallwood's research indicates that of the available records of tracked birds, 5,883 birds representing 112 species have been recorded flying into the Newport Beach area from 16 different countries. (*Id.*) According to BirdCast (<https://dashboard.birdcast.org/region/US-CA-059>), nocturnal migrants in the sky over Orange County average 6,200 individuals and peak at 75,000 in May. (*Id.*) Many of the birds fly at elevations within the height range of the Project's proposed buildings. (*Id.*)

At least 109 special-status bird species are known to the Project area, the majority of which have been documented within 1.5 miles of the Project site. Within a four-mile radius, 95 special-status species have been documented. (*Id.* at p. 4 and Table 1.) Dr. Smallwood concludes that each of these 95 species-status species detected within four miles of the Project site are at risk of collision with the Project's two high rise towers. (*Id.*)

Based on Dr. Smallwood's direct monitoring experience at 213 buildings and facades, combined with his review of dozens of bird collision studies, Dr. Smallwood calculated predictive mortality estimates for the Project. (Ex. A, p. 5.) While publicly available information did not disclose precise window specifications, Dr. Smallwood was able to measure the extent of windows depicted in the building schematics provided by the City. (*Id.*) Based on his estimate of 17,370 square meters of exterior glass in the form of windows and railings, Dr. Smallwood predicts the Project would kill 1,270 birds annually. (*Id.*) Dr. Smallwood notes that the vast majority of these collision fatalities would involve special-status species protected under the Migratory Bird Treaty Act and the California Migratory Bird Protection Act. A special-status species bird-window collision mortality of this predicted magnitude would be highly significant. (*Id.*)

This impact is peculiar to the Project given the high-rise nature of the proposed buildings. Moreover, this impact was not analyzed as a significant impact in the GPHIP EIR. Accordingly, pursuant to CEQA Guidelines section 15183, the City must undertake further environmental analysis and adopt mitigation measures to reduce this significant environmental impact.

II. THE CITY LACKS SUBSTANTIAL EVIDENCE TO SUPPORT ITS CONCLUSIONS WITH RESPECT TO THE PROJECT'S IMPACTS ON SPECIAL-STATUS BIRDS FROM WINDOW COLLISIONS.

The City lacks substantial evidence to conclude that the Project will not result in significant and peculiar impacts on special-status birds as a result of window and building collisions. The City failed to conduct any biological surveys or evaluate the Project's potential to impact biological resources at the Project site and resulting from the Project. The City has not performed any Project or site-specific analysis of the Project's potential impacts on biological resources as a result of window and building collisions. Neither the GPHIP EIR nor the 15183 Consistency Memorandum include any analysis of the potential for new housing developments, including the Project, to result in deaths to birds as a result of window and building collisions.

The City also fails to provide substantial evidence demonstrating that the Project's impacts on biological resources will be reduced to less-than-significant levels as a result of "uniformly applied development policies or standards." The City has not identified or committed to any mitigation measures to address impacts to biological resources stemming from bird collisions with the Project's two high rise towers. There are numerous feasible mitigation measures that can reduce impacts, such as using treated windows, adjusting outward lighting, and adjusting the orientation of buildings. (Ex. A, p. 6.) These mitigation measures should be considered in the subsequent EIR.

Dr. Smallwood's comments are substantial evidence that the Project will have significant, site-specific impacts on biological resources. These impacts were not addressed in the 2000 GP EIR or the City's staff report. The City also failed to propose any mitigation measures or provide any evidence to demonstrate that impacts to biological resources will be mitigated to less-than-significant. Accordingly, the City cannot rely on the CEQA Guidelines Section 15183 exemption and must prepare an EIR that evaluates the Project-specific biological resources impacts and mitigates those impacts as required by CEQA.

CONCLUSION

SAFER respectfully requests the City grant its appeal. The City lacks substantial evidence to rely on the CEQA Guidelines section 15183 exemption for Project approval. The Project will result in potentially significant impacts which are peculiar to the Project and Project site and require mitigation and were not analyzed in the GPHIP EIR. Therefore, an EIR is required to analyze and mitigate the Project's significant biological resources impacts and the City cannot approve the Project until it complies with CEQA.

Sincerely,



Rebecca Davis
Lozeau Drury LLP

EXHIBIT A

Shawn Smallwood, PhD
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Liz Westmoreland, AICP, Principal Planner
City of Newport Beach
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Newport Beach, CA 92660

3 March 2026

RE: 300 Newport Center Drive

Dear Ms. Westmoreland,

I write to comment on the Notice of Public Hearing regarding the two proposed 270-foot-tall condominium towers on 4.17 acres at 300 Newport Center Drive. City Staff relies on the previously approved City of Newport Beach Housing Implementation Program Final Program EIR (SCH Number 2023060699) to claim a 14 CCR section 15183 Exemption from CEQA review. After reviewing the renderings of the buildings and the biological resources section of the Housing Implementation Program FEIR, I come to the conclusion that the Exemption would not be appropriate. I am concerned that the amount of external glass, the manners in which the glass would be constructed, and the location of the buildings would together pose excessive risk of collision mortality to birds, and that this potential project impact has not been analyzed nor any mitigation strategy formulated to avoid or minimize the impact. Mitigation measures are available, and they are known to greatly minimize, and in some cases to have reduced, collision mortality.

My qualifications for preparing expert comments are the following. I hold a Ph.D. degree in Ecology from University of California at Davis, where I also worked as a post-graduate researcher in the Department of Agronomy and Range Sciences. My research has been on animal density and distribution, habitat selection, wildlife interactions with the anthrosphere, and conservation of rare and endangered species. I authored many papers on these and other topics. I served as Chair of the Conservation Affairs Committee for The Wildlife Society – Western Section. I am a member of The Wildlife Society, and I've lectured part-time at California State University, Sacramento. I was Associate Editor of wildlife biology's premier scientific journal, The Journal of Wildlife Management, as well as of Biological Conservation, and I was on the Editorial Board of Environmental Management. I have performed wildlife surveys in California for thirty-seven years. My CV is attached.

THE AEROSPHERE AS PART OF THE ENVIRONMENTAL SETTING

The project would add two 270-foot-tall buildings, which would take a large volume of an essential portion of habitat of birds. To understand this part of avian habitat, one must consider the definition of habitat, which is a species' reliance on that part of the environment that is important to survival and reproduction (Hall et al. 1997). The gaseous atmosphere, or aerosphere, is habitat to many bird species, because birds use it

to migrate, disperse, patrol home ranges, commute between roost sites and foraging areas, and for other needs such as courtship and for some species even for copulation. The aerosphere is a principal medium of life to volant animals such as birds (Davy et al. 2017, Diehl et al. 2017). Indeed, an entire discipline of ecology has emerged to study this essential aspect of habitat – the discipline of aeroecology (Kunz et al. 2008). The aerosphere is part of the existing environmental setting, and it needs to be characterized as such in CEQA review.

BIRD-WINDOW COLLISIONS

The project would add two 270-foot-tall buildings, which would expose the birds of the project area to windows composing the building's facades. Window collisions are often characterized as either the second or third largest source or human-caused bird mortality. The numbers behind these characterizations are often attributed to Klem's (1990) and Dunn's (1993) estimates of about 100 million to 1 billion bird fatalities in the USA, or more recently by Loss et al.'s (2014) estimate of 365-988 million bird fatalities in the USA or Calvert et al.'s (2013) and Machtans et al.'s (2013) estimates of 22.4 million and 25 million bird fatalities in Canada, respectively. The proposed project would impose windows in the airspace normally used by birds.

Glass-façades of buildings intercept and kill many birds, but these façades are differentially hazardous to birds based on spatial extent, contiguity, orientation, and other factors. At Washington State University, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a three-story glass walkway (no fatality adjustments attempted). Prior to marking the windows to warn birds of the collision hazard, the collision rate was 84.7 per year. At that rate, and not attempting to adjust the fatality estimate for the proportion of fatalities not found, 4,574 birds were likely killed over the 54 years since the start of their study, and that's at a relatively small building façade. Accounting for the proportion of fatalities not found, the number of birds killed by this walkway over the last 54 years would have been about 14,270. And this is just for one 3-story, glass-sided walkway between two college campus buildings.

Klem's (1990) estimate was based on speculation that 1 to 10 birds are killed per building per year, and this speculated range was extended to the number of buildings estimated by the US Census Bureau in 1986. Klem's speculation was supported by fatality monitoring at only two houses, one in Illinois and the other in New York. Also, the basis of his fatality rate extension has changed greatly since 1986. Whereas his estimate served the need to alert the public of the possible magnitude of the bird-window collision issue, it was highly uncertain at the time and undoubtedly outdated more than three decades hence. Indeed, by 2010 Klem (2010) characterized the upper end of his estimated range – 1 billion bird fatalities – as conservative. Furthermore, the estimate lumped species together as if all birds are the same and the loss of all birds to windows has the same level of impact.

By the time Loss et al. (2014) performed their effort to estimate annual USA bird-window fatalities, many more fatality monitoring studies had been reported or were

underway. Loss et al. (2014) incorporated many more fatality rates based on scientific monitoring, and they were more careful about which fatality rates to include. However, they included estimates based on fatality monitoring by homeowners, which in one study were found to detect only 38% of the available window fatalities (Bracey et al. 2016). Loss et al. (2014) excluded all fatality records lacking a dead bird in hand, such as injured birds or feather or blood spots on windows. Loss et al.'s (2014) fatality metric was the number of fatalities per building (where in this context a building can include a house, low-rise, or high-rise structure), but they assumed that this metric was based on window collisions. Because most of the bird-window collision studies were limited to migration seasons, Loss et al. (2014) developed an admittedly assumption-laden correction factor for making annual estimates. Also, only 2 of the studies included adjustments for carcass persistence and searcher detection error, and it was unclear how and to what degree fatality rates were adjusted for these factors. Although Loss et al. (2014) attempted to account for some biases as well as for large sources of uncertainty mostly resulting from an opportunistic rather than systematic sampling data source, their estimated annual fatality rate across the USA was highly uncertain and vulnerable to multiple biases, most of which would have resulted in fatality estimates biased low.

In my review of bird-window collision monitoring, I found that the search radius around homes and buildings was very narrow, usually 2 meters. Based on my experience with bird collisions in other contexts, I would expect that a large portion of bird-window collision victims would end up farther than 2 m from the windows, especially when the windows are higher up on tall buildings. In my experience, searcher detection rates tend to be low for small birds deposited on ground with vegetation cover or woodchips or other types of organic matter. Also, vertebrate scavengers entrain on anthropogenic sources of mortality and quickly remove many of the carcasses, thereby preventing the fatality searcher from detecting these fatalities. Adjusting fatality rates for these factors – search radius bias, searcher detection error, and carcass persistence rates – would greatly increase nationwide estimates of bird-window collision fatalities.

Buildings can intercept many nocturnal migrants (Van Doren et al. 2021) as well as birds flying in daylight. As mentioned above, Johnson and Hudson (1976) found 266 bird fatalities of 41 species within 73 months of monitoring of a four-story glass walkway at Washington State University (no adjustments attempted for undetected fatalities). Somerlot (2003) found 21 bird fatalities among 13 buildings on a university campus within only 61 days. Monitoring twice per week, Hager et al. (2008) found 215 bird fatalities of 48 species, or 55 birds/building/year, and at another site they found 142 bird fatalities of 37 species for 24 birds/building/year. Gelb and Delacretaz (2009) recorded 5,400 bird fatalities under buildings in New York City, based on a decade of monitoring only during migration periods, and some of the high-rises were associated with hundreds of fatalities each. Klem et al. (2009) monitored 73 building façades in New York City during 114 days of two migratory periods, tallying 549 collision victims, nearly 5 birds per day. Borden et al. (2010) surveyed a 1.8 km route 3 times per week during 12-month period and found 271 bird fatalities of 50 species. Parkins et al. (2015) found 35 bird fatalities of 16 species within only 45 days of monitoring under 4 building façades. From 24 days of survey over a 48-day span, Porter and Huang (2015) found 47 fatalities under 8 buildings on a university campus. Sabo et al. (2016) found 27 bird

fatalities over 61 days of searches under 31 windows. In San Francisco, Kahle et al. (2016) found 355 collision victims within 1,762 days under a 5-story building. Ocampo-Peñuela et al. (2016) searched the perimeters of 6 buildings on a university campus, finding 86 fatalities after 63 days of surveys. One of these buildings produced 61 of the 86 fatalities, and another building with collision-deterrent glass caused only 2 of the fatalities, thereby indicating a wide range in impacts likely influenced by various factors. There is ample evidence available to support my prediction that the proposed project would result in many collision fatalities of birds.

Birds that would be Vulnerable to the Project

Because the project would consist of two high-rise buildings with many windows, avian use of the local atmosphere should be of concern. Of the available records of tracked birds, 5,883 birds of 112 species have been recorded flying into the Newport Beach area from 16 countries of the Americas, from as far away as Argentina (Swainson's hawks) to northern Alaska and northern Canada (e.g., whimbrel and brant) and New Brunswick (e.g., green-winged teal) and Florida (Brown pelican) (<https://explorer.audubon.org/explore/locations/DYQwLgvAzFB0BsAGAHAdnqg3MA9gOwgFoBGY1WNGAViwAsBTADwEkATCAJg4E5lMwAlmGDoIAOXoB3AA44ATmAAEAIxogAxrQAoigMIBBHQFUAyvv4BPaaIAyAeQMAVZnbFA/connections?zoom=7&x=2517121.9601057805&y=2403411.3245877805>). According to BirdCast (<https://dashboard.birdcast.org/region/US-CA-059>), the number of nocturnal migrants in the sky over Orange County averaged 6,200 and peaked at 15,400, with most headed north-northwest – generally following the coastline. The nightly average number of nocturnal migrants crossing Orange County will peak in May at about 75,000. The average altitude is 1,100 feet. However contributing to this average are many birds flying within the height domain of the proposed buildings.

Hundreds of thousands of birds migrate along the Pacific Flyway, which includes Newport Beach. At least 109 special-status species of birds are known to the project area (Table 1). Most (69%) have been documented in eBird within 1.5 miles of the project site, and another 20 (18%) have been documented between 1.5 and 4 miles from the site, and another 12 (11%) have been documented between 4 and 30 miles from the site. Thus, 95 special-status species of birds are known to the atmosphere within 4 miles of the project site, and at least all these species would be at risk of collision with the buildings.

According to the literature, many of the special-status species in Table 1 have been documented as window collision fatalities and are therefore susceptible to new structural glass installations (Supplemental Material to Basilio et al. 2020; Smallwood unpublished review). Many more species of migratory birds, protected by the federal Migratory Bird Treaty Act and by California's Migratory Bird Protection Act, have also been documented as window collision victims (Basilio et al. 2020).

Neither the Central-Coastal NCCP/HCP nor the City of Newport Beach Housing Implementation Program FEIR address bird-window collision mortality. Neither of these plans include mitigation strategies for avoiding, minimizing, reducing or offsetting

impacts of bird-window collision mortality. This lack of planning is especially concerning because the renderings of the proposed buildings depict the very attributes that are most strongly associated with bird-window collisions: Expansive windows, reflective windows, transparent windows allowing views of background sky, and the growing of vegetation on balconies and on the ground floor near expansive reflective windows. Furthermore, the available documentation is silent on exterior lighting and the degree to which interior lighting would be emitted at night. Lit buildings are known to confuse nocturnally migrating birds, many of which collide with lit buildings.

Project Impact Prediction

By the time of these comments, I had reviewed and processed results of bird collision monitoring at 213 buildings and façades for which bird collisions per m² of glass per year could be calculated and averaged (Johnson and Hudson 1976, O’Connell 2001, Somerlot 2003, Hager et al. 2008, Borden et al. 2010, Hager et al. 2013, Porter and Huang 2015, Parkins et al. 2015, Kahle et al. 2016, Ocampo-Peñuela et al. 2016, Sabo et al. 2016, Barton et al. 2017, Gomez-Moreno et al. 2018, Schneider et al. 2018, Loss et al. 2019, Brown et al. 2020, City of Portland Bureau of Environmental Services and Portland Audubon 2020, Riding et al. 2020). These study results averaged 0.073 bird deaths per m² of glass per year (95% CI: 0.042-0.102). This average and its 95% confidence interval provide a robust basis for predicting fatality rates at a proposed new project.

The Notice of Public Hearing does not disclose the extent of glass windows on the proposed new building, other than by depictions of windows in renderings of the buildings. I therefore measured the extents of windows depicted in the building schematics provided by the City. Based on my measurements of the building’s schematics, I estimate the project would include 17,370 m² of exterior glass in the forms of windows and railings. Applying the mean fatality rate (above) to my estimate of glass in this project, I predict annual bird deaths of 1,270 (95% CI: 754–1,786).

The vast majority of bird-window collision deaths would be of birds protected under the Migratory Bird Treaty Act and under the recently revised California Migratory Bird Protection Act, thus causing significant unmitigated impacts. Some of the birds killed by the project could be covered by the Central-Coastal NCCP/HCP, hence adding additional significant impacts. Given the predicted level of bird-window collision mortality, and the lack of any proposed mitigation, it is my opinion that the proposed project would result in potentially significant adverse biological impacts.

At least a fair argument can be made for the need to prepare an EIR to appropriately analyze the potential impacts of bird-window collisions that might be caused by the project.

Data needed to Minimize Collision Risk: Behavioral ecologists are needed to observe bird flights in and around the airspace that would be occupied by the project’s buildings. Visual-scan observations are needed during daylight hours, and thermal-imaging or radar scans are needed at night. The needed metrics include numbers of

birds flying per species, flight heights, and flight directions. These data are needed to assess collision risks during day and night and based on flight vectors. Knowing these flight patterns, the project's buildings could be re-designed, if warranted, to orient the buildings' facades to minimize head-on impacts.

Guidelines on Building Design to Minimize Bird-Window Collisions: If the project goes forward, it should at a minimum adhere to available Bird-Safe Guidelines, such as those prepared by American Bird Conservancy and New York and San Francisco. The American Bird Conservancy (ABC) produced an excellent set of guidelines recommending actions to: (1) Minimize use of glass; (2) Placing glass behind some type of screening (grilles, shutters, exterior shades); (3) Using glass with inherent properties to reduce collisions, such as patterns, window films, decals or tape; and (4) Turning off lights during migration seasons (Sheppard and Phillips 2015). The City of San Francisco (San Francisco Planning Department 2011) also has a set of building design guidelines, based on the excellent guidelines produced by the New York City Audubon Society (Orff et al. 2007). The ABC document and both the New York and San Francisco documents provide excellent alerting of potential bird-collision hazards as well as many visual examples. The San Francisco Planning Department's (2011) building design guidelines are more comprehensive than those of New York City, but they could have gone further. For example, the San Francisco guidelines probably should have also covered scientific monitoring of impacts as well as compensatory mitigation for impacts that could not be avoided, minimized or reduced.

New research results inform of the efficacy of marking windows. Whereas Klem (1990) found no deterrent effect from decals on windows, Johnson and Hudson (1976) reported a fatality reduction of about 69% after placing decals on windows. In an experiment of opportunity, Ocampo-Peñuela et al. (2016) found only 2 of 86 fatalities at one of 6 buildings – the only building with windows treated with a bird deterrent film. At the building with fritted glass, bird collisions were 82% lower than at other buildings with untreated windows. Kahle et al. (2016) added external window shades to some windowed façades to reduce fatalities 82% and 95%. Brown et al. (2020) reported an 84% lower collision probability among fritted glass windows and windows treated with ORNILUX R UV. City of Portland Bureau of Environmental Services and Portland Audubon (2020) reduced bird collision fatalities 94% by affixing marked Solyx window film to existing glass panels of Portland's Columbia Building. Many external and internal glass markers have been tested experimentally, some showing no effect and some showing strong deterrent effects (Klem 1989, 1990, 2009, 2011; Klem and Saenger 2013; Rössler et al. 2015).

Van Doren et al. (2021) found that nocturnal migrants contributed most of the collision fatalities in their study, and the largest predictors of fatalities were peak migration and lit windows. Van Doren et al. (2021) predicted that a light-out mitigation measure could reduce bird-window collision mortality by 60%.

The City of Newport Beach should follow the examples of other cities and formulate its own mitigation guidelines for analysis of potential impacts and for mitigating those impacts.

Fatality Monitoring: Monitoring and the use of compensatory mitigation should be incorporated at any new building project because the measures recommended in the available guidelines remain of uncertain efficacy, and even if these measures are effective, they will not reduce collision mortality to zero. The only way to assess mitigation efficacy and to quantify post-construction mortality is to monitor the project for fatalities.

Thank you for your consideration,



Shawn Smallwood, Ph.D.

LITERATURE CITED

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Table 1. Occurrence likelihoods of special-status bird species at or near the proposed project site, according to eBird records (<https://eBird.org>), where ‘Very close’ indicates within 1.5 miles of the site, “nearby” indicates between 1.5 and 4 miles, and “in region” indicates between 4 and 30 miles, and ‘in range’ means the species’ geographic range overlaps the site.

Common name	Species name	Status¹	Occurrence records
Fulvous whistling-duck	<i>Dendrocygna bicolor</i>	SSC1	In region
Brant	<i>Branta bernicla</i>	SSC2	Very close
Cackling goose (Aleutian)	<i>Branta hutchinsii leucopareia</i>	WL	Nearby
Redhead	<i>Aythya americana</i>	SSC2	Very close
Harlequin duck	<i>Histrionicus histrionicus</i>	SSC2	Very close
Western grebe	<i>Aechmophorus occidentalis</i>	BCC	Very close
Clark’s grebe	<i>Aechmophorus clarkii</i>	BCC	Very close
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	FT, CE	Nearby
Black swift	<i>Cypseloides niger</i>	SSC3, BCC	Nearby
Vaux’s swift	<i>Chaetura vauxi</i>	SSC2	Very close
Costa’s hummingbird	<i>Calypte costae</i>	BCC	Very close
Calliope hummingbird	<i>Selasphorus calliope</i>	BCC	Nearby
Rufous hummingbird	<i>Selasphorus rufus</i>	BCC	Very close
Allen’s hummingbird	<i>Selasphorus sasin</i>	BCC	Very close
Light-footed Ridgway’s rail	<i>Rallus obsoletus levipes</i>	FE, CE, CFP	Very close
American avocet	<i>Recurvirostra americana</i>	BCC	Very close
Black oystercatcher	<i>Haematopus bachmani</i>	BCC	Very close
Mountain plover	<i>Charadrius montanus</i>	SSC2, BCC	In region
Snowy plover	<i>Charadrius nivosus</i>	BCC	Very close
Western snowy plover	<i>Charadrius nivosus nivosus</i>	FT, SSC	In region
Long-billed curlew	<i>Numenius americanus</i>	WL	Very close
Marbled godwit	<i>Limosa fedoa</i>	BCC	Very close
Black turnstone	<i>Arenaria melanocephala</i>	BCC	Very close
Red knot	<i>Calidris canutus</i>	BCC	Very close
Pectoral sandpiper	<i>Calidris melanotos</i>	BCC	Nearby
Short-billed dowitcher	<i>Limnodromus griseus</i>	BCC	Very close
Wandering tattler	<i>Tringa incana</i>	BCC	Very close
Lesser yellowlegs	<i>Tringa flavipes</i>	BCC	Very close
Willet	<i>Tringa semipalmata</i>	BCC	Very close
Laughing gull	<i>Leucophaeus atricilla</i>	WL	Nearby
Franklin’s gull	<i>Leucophaeus pipixcan</i>	BCC	Nearby
Heermann’s gull	<i>Larus heermanni</i>	BCC	Very close
Western gull	<i>Larus occidentalis</i>	BCC	Very close
California gull	<i>Larus californicus</i>	BCC, WL	Very close
California least tern	<i>Sternula antillarum browni</i>	FE, CE, CFP	Very close
Gull-billed tern	<i>Gelochelidon nilotica</i>	BCC, SSC3	Very close
Black tern	<i>Chlidonias niger</i>	SSC2, BCC	Nearby
Elegant tern	<i>Thalasseus elegans</i>	BCC, WL	Very close

Common name	Species name	Status¹	Occurrence records
Black skimmer	<i>Rynchops niger</i>	BCC, SSC3	Very close
Common loon	<i>Gavia immer</i>	SSC	Very close
Brandt's cormorant	<i>Urile penicillatus</i>	BCC	Very close
Double-crested cormorant	<i>Phalacrocorax auritus</i>	WL	Very close
American white pelican	<i>Pelicanus erythrorhynchos</i>	SSC1	Very close
Least bittern	<i>Ixobrychus exilis</i>	SSC2	Very close
Reddish egret	<i>Egretta rufescens</i>	BCC	Very close
White-faced ibis	<i>Plegadis chihi</i>	WL	Very close
Turkey vulture	<i>Cathartes aura</i>	BOP	Very close
Osprey	<i>Pandion haliaetus</i>	WL, BOP	Very close
White-tailed kite	<i>Elanus leucurus</i>	CFP, BOP	Very close
Golden eagle	<i>Aquila chrysaetos</i>	BGEPA, CFP, BOP, WL, NCCP	Nearby
Northern harrier	<i>Circus cyaneus</i>	BCC, SSC3, BOP, NCCP	Very close
Sharp-shinned hawk	<i>Accipiter striatus</i>	WL, BOP, NCCP	Very close
Cooper's hawk	<i>Accipiter cooperii</i>	WL, BOP	Very close
Bald eagle	<i>Haliaeetus leucocephalus</i>	CE, BGEPA, BOP	Very close
Red-shouldered hawk	<i>Buteo lineatus</i>	BOP, NCCP	Very close
Swainson's hawk	<i>Buteo swainsoni</i>	CT, BOP	Very close
Red-tailed hawk	<i>Buteo jamaicensis</i>	BOP	Very close
Ferruginous hawk	<i>Buteo regalis</i>	WL, BOP	Very close
Rough-legged hawk	<i>Buteo lagopus</i>	BOP, NCCP	In region
Zone-tailed hawk	<i>Buteo albonotatus</i>	BOP	Nearby
Harris' hawk	<i>Parabuteo unicinctus</i>	WL, BOP	Nearby
American barn owl	<i>Tyto furcata</i>	BOP	Very close
Western screech-owl	<i>Megascops kennicotti</i>	BOP	In region
Great horned owl	<i>Bubo virginianus</i>	BOP	Very close
Burrowing owl	<i>Athene cunicularia</i>	BCC, CCE, SSC2, BOP	Very close
Long-eared owl	<i>Asio otus</i>	BCC, SSC3, BOP	In region
Short-eared owl	<i>Asia flammeus</i>	BCC, SSC3, BOP	Nearby
Lewis's woodpecker	<i>Melanerpes lewis</i>	BCC	Nearby
Nuttall's woodpecker	<i>Picoides nuttallii</i>	BCC	Very close
American kestrel	<i>Falco sparverius</i>	BOP	Very close
Merlin	<i>Falco columbarius</i>	WL, BOP	Very close
Peregrine falcon	<i>Falco peregrinus</i>	BOP, NCCP	Very close
Prairie falcon	<i>Falco mexicanus</i>	WL, BOP	Very close
Olive-sided flycatcher	<i>Contopus cooperi</i>	BCC, SSC2	Very close
Willow flycatcher	<i>Empidonax trailii</i>	CE	Very close
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	FE, CE, NCCP	In region
Vermilion flycatcher	<i>Pyrocephalus rubinus</i>	SSC2	Very close

Common name	Species name	Status¹	Occurrence records
Least Bell's vireo	<i>Vireo bellii pusillus</i>	FE, CE	Very close
Loggerhead shrike	<i>Lanius ludovicianus</i>	SSC2	Very close
Oak titmouse	<i>Baeolophus inornatus</i>	BCC	Nearby
California horned lark	<i>Eremophila alpestris actia</i>	WL	Very close
Bank swallow	<i>Riparia riparia</i>	CT	Very close
Purple martin	<i>Progne subis</i>	SSC2	Very close
Wrentit	<i>Chamaea fasciata</i>	BCC	Very close
California gnatcatcher	<i>Polioptila c. californica</i>	FT, SSC2, NCCP	Very close
Clark's marsh wren	<i>Cistothorus palustris clarkae</i>	SSC2	In range
Coastal cactus wren	<i>Campylorhynchus brunneicapillus sandiegensis</i>	SSC1, NCCP	Very close
California thrasher	<i>Toxostoma redivivum</i>	BCC	Very close
Cassin's finch	<i>Haemorhous cassinii</i>	BCC	In region
Lawrence's goldfinch	<i>Spinus lawrencei</i>	BCC	Very close
Grasshopper sparrow	<i>Ammodramus savannarum</i>	SSC2	Very close
Black-chinned sparrow	<i>Spizella atrogularis</i>	BCC	Nearby
Gray-headed junco	<i>Junco hyemalis caniceps</i>	WL	In region
Bell's sparrow	<i>Amphispiza b. belli</i>	WL	In region
Oregon vesper sparrow	<i>Pooecetes gramineus affinis</i>	SSC2	In range
Belding's savannah sparrow	<i>Passerculus sandwichensis beldingi</i>	CE, BCC	Very close
Large-billed savannah sparrow	<i>Passerculus sandwichensis rostratus</i>	SSC2	Nearby
Southern California rufous-crowned sparrow	<i>Aimophila ruficeps canescens</i>	WL, NCCP	Very close
Yellow-breasted chat	<i>Icteria virens</i>	SSC3	Very close
Yellow-headed blackbird	<i>X. xanthocephalus</i>	SSC3	Very close
Bullock's oriole	<i>Icterus bullockii</i>	BCC	Very close
Tricolored blackbird	<i>Agelaius tricolor</i>	CT, BCC, SSC1	Nearby
Lucy's warbler	<i>Leiothlypis luciae</i>	SSC3	Nearby
Virginia's warbler	<i>Leiothlypis virginiae</i>	WL, BCC	Nearby
Prothonotary warbler	<i>Protonotaria citrea</i>	BCC	In region
Prairie warbler	<i>Setophaga discolor</i>	BCC	Nearby
Northern yellow warbler	<i>Setophaga aestiva</i>	SSC2	Very close
Hepatic tanager	<i>Piranga flava</i>	WL	In region
Summer tanager	<i>Piranga rubra</i>	SSC1	Very close

¹ Listed on CDFW's Special Animals List (<https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=109406>) as FT or FE = federal threatened or endangered; FC = federal candidate for listing; CT or CE = California threatened or endangered; CCT or CCE = Candidate California threatened or endangered; CFP = California Fully Protected (California Fish and Game Code 3511); SSC_i = California Species of Special Concern with i = priorities 1, 2 and 3; WL = CDFW's Taxa to Watch List; BGEPA = Bald and Golden Eagle Protection Act; BCC = U.S. Fish and Wildlife Service's Bird of Conservation Concern (<https://www.fws.gov/sites/default/files/documents/birds-of-conservation-concern-2021.pdf>); BOP = protected by Birds of Prey (California Fish and Game Code 3503.5, see

<https://wildlife.ca.gov/Conservation/Birds/Raptors>); and NCCP = covered by the Central-Coastal NCCP/HCP.

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From: [Shumway, Lena](#)
To: [Farris, Jennifer](#)
Subject: FW: Item #14 - 300 Newport Center Drive Condominiums Appeal
Date: April 27, 2026 2:39:12 PM
Attachments: [Response to K. LaCroix Appeal\(19400750\).pdf](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)



Lena Shumway
City Clerk
City Clerk's Office
Office: 949-644-3007

100 Civic Center Dr
Newport Beach, CA 92660



From: Jurjis, Seimone <sjurjis@newportbeachca.gov>
Sent: April 27, 2026 2:32 PM
To: Shumway, Lena <LShumway@newportbeachca.gov>
Subject: FW: Item #14 - 300 Newport Center Drive Condominiums Appeal

For item No. 14



Seimone Jurjis
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From: Matsler, Sean <SMatsler@coxcastle.com>
Sent: April 27, 2026 1:47 PM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Cc: Harp, Aaron <aharp@newportbeachca.gov>; Murillo, Jaime <JMurillo@newportbeachca.gov>; Westmoreland, Liz <LWestmoreland@newportbeachca.gov>; Canori, Gino <gcanori@related.com>;

Witte, Matthew <matthew.witte@related.com>; Shum, Jonathan <jonathan.shum@related.com>; Morrison, Rich <rimorrison@related.com>

Subject: Item #14 - 300 Newport Center Drive Condominiums Appeal

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Honorable Mayor Kleiman and Members of the Newport Beach City Council:

This Firm represents Related California with respect to its proposal to redevelop the property located at 210 and 300 Newport Center Drive. The attached letter responds to the claims made in the appeal by Mr. Ken LaCroix.

As explained in the attached letter, Mr. LaCroix' appeal lacks merit and ignores the substantial analysis and information in the record supporting the Planning Commission's findings and approval. It does not raise any substantive issue with respect to (a) the adequacy of the CEQA Guidelines Section 15183 Consistency Review prepared for the Project, (b) the Planning Commission's findings, or (c) the Project's consistency with applicable standards, policies, and goals. For that reason, we respectfully request that the Appeal be denied, and the Planning Commission's decision upheld.

Respectfully,
Sean Matsler

Sean T Matsler



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April 27, 2026

VIA E-MAIL

Mayor Kleiman and City Councilmembers
City of Newport Beach
100 Civic Center Drive
Newport Beach, CA 92660

Re: 300 Newport Center Drive Project (PA2025-0102) – Response to Ken D. LaCroix Appeal

Dear Mayor Kleiman and City Councilmembers:

This Firm represents Related California (“Applicant”) with respect to its proposal to redevelop the property located at 210 and 300 Newport Center Drive, Newport Beach, California. The Applicant proposes to demolish the existing 1,134-seat, six-screen movie theater (“Regal Edwards Theater”), 6,400 square foot health/fitness facility, and adjoining surface parking lot, and construct two 22-story residential buildings (the “Project”). The Project was approved by the Planning Commission on March 5, 2026 (Resolution No. PC 2026-004). The Planning Commission’s approval was appealed to the City Council by two appellants: SAFER and Mr. Ken D. LaCroix. This letter responds to the claims made in the appeal (the “Appeal”) by Mr. LaCroix (“Appellant”).

In short, the Appeal lacks merit and ignores the substantial analysis and information in the record supporting the Planning Commission’s findings and approval. As demonstrated below, the Appeal does not raise any substantive issue with respect to (a) the adequacy of the CEQA Guidelines Section 15183 Consistency Review prepared for the Project, (b) the Planning Commission’s findings, or (c) the Project’s consistency with applicable standards, policies, and goals. For that reason, we respectfully request that the Appeal be denied, and the Planning Commission’s decision upheld.

* * * * *

Appellant Comment #1:

- Loss of historical arts and culture structure – one of the largest screens in the country – historical significance was not properly analyzed

Response #1

The existing Regal Edwards Theater was evaluated by a highly-qualified professional historian, consistent with Mitigation Measure CUL-1 of the General Plan Housing Implementation Program Final Program Environmental Impact Report (“GPHIP PEIR”), which requires evaluation of any structures exceeding 50 years of age. LSA, the historian, concluded, after a detailed review, that the theater was not a historical resource. First, the Regal Edwards Theater “has been extensively altered, no longer conveys an association with its period of significance (1969-1975), and is no longer representative of its original architectural style.” Second, there is no evidence that it is the work of a master architect or builder. Third, although the chain was named after its founder, James Edwards, Mr. Edwards does “not appear to have made any historically important contributions to the movie theater business or local community.”

Thus, there is substantial evidence in the record that supports the Planning Commission’s finding that the Regal Edwards Theater is not a historical resource. (Pub. Res. Code § 21080(e)(1) [substantial evidence includes “facts, reasonable assumptions predicated on facts, and expert opinion supported by facts”].) The Appellant’s arguments to the contrary, which are solely based on opinion, do not provide any evidence to the contrary. That alone (even not accounting for the overwhelming substantial evidence in the record concluding the theater is not historic) disqualifies the Appeal. (*Porterville Citizens for Responsible Hillside Development v. City of Porterville* (2007) 157 Cal.App.4th 885, 900 [“uncorroborated opinion or rumor does not constitute substantial evidence”].)

Appellant Comment #2:

- The CEQA analysis failed to evaluate the negative economic impact this project will have on surrounding businesses – both short-term construction impacts and long-term parking impacts

Response #2

The Appellant asserts, without any evidence, the Project will have negative economic impacts on surrounding businesses. There is no basis for that assertion. First, to the extent that the Appellant is referencing Project construction as the cause for negative impacts, construction is common in urban areas, including Newport Center. There is no direct connection between construction and negative economic impacts, and Project construction would occur with sensitivity to surrounding uses/access (consistent with local requirements). Second, quite to the contrary of

Appellant’s assertion, the introduction of high-quality housing in Newport Center is likely to have a positive economic impact, helping to create the vibrant, urban, pedestrian-friendly environment envisioned by the General Plan. (General Plan Policies LU 6.14.5, 6.14.6, 2.2.)

Second, the Appellant asserts the “CEQA analysis” failed to consider such potential impacts. To that issue, CEQA is very clear – “[e]conomic or social effects of a project shall not be treated as significant effects on the environment.” (“CEQA Guidelines § 15131(a).) The Project’s CEQA analysis properly considered all potential physical environmental changes that could result from the Project.

The Appellant’s contention regarding parking are equally unavailing. First, the Appellant presents no evidence of a parking deficiency. In fact, the opposite is true – the Project is appropriately parked, as demonstrated by the Parking Analysis prepared by Gibson Transportation Consulting, Inc. Second, parking is not a CEQA impact.

Appellant Comment #3:

- Various other CEQA issues

Response #3

The comment does not identify any “other” specific issues and, for that reason, does not support the Appeal.

Appellant Comment #4:

- No established objective design standards for high-rise and no qualified staff to review building aesthetics

Response #4

The Appellant’s comment ignores the City’s Objective Design Standards (ODS), which are applicable to the Project. The Planning Commission’s findings, in fact, directly addressed the ODS regarding multi-unit developments and found that the Project, as proposed, was consistent with the ODS. The ODS are exactly as they are described – objective – meaning that consistency is easily assessed. With respect to the high-rise nature of the buildings, the Planning Commission found that the “enhanced vertical modulation [] exceeds the minimum standards of the NBMC” and that “[a]lthough the building is over 200 feet high, there is a podium level that interfaces at the pedestrian scale and the two residential towers include significant modulation, articulation, and architectural treatment to ensure a high-quality design.”

The Appeal presents no evidence whatsoever in support of its aesthetic criticisms.

Appellant Comment #5:

- The Vesting Tentative Tract Map is unsupported and based on flawed findings

Response #5

The comment identifies no specific allegation, but instead generically assertions (based solely on unsupported opinion) that the Planning Commission's VTTM findings are flawed. An unsupported statement does undermine the Planning Commission's approval, which included 26+ pages of detailed, factually supported findings.

Appellant Comment #6:

- Parking waiver for home offices and retail with no restrictions on guest or employee parking; the parking study does not address where service persons will park – housekeepers, childcare workers, etc.

Response #6

As discussed above in Response #2, Gibson Transportation Consulting, Inc. prepared a detailed parking analysis for the Project. That analysis concluded that proposed parking – 343 spaces – was appropriate to serve the needs of the Project.

The Appellant contends the parking analysis is inadequate for failure to address where housekeepers, childcare workers, and other visitors may park. However, the parking analysis directly addresses where guests of the residents would parking, noting that the project includes 45 spaces for visitors on-site. Those 45 visitor spaces are available to invitees/guests of the residents, including housekeepers, childcare workers, and others.

Appellant Comment #7

- No conditions/parking management plan to address parking by residents and guests within Muldoon's and blocks 200/300

Response #7

The Appellant's comment is unclear. However, it appears that the comment believes the parking analysis fails to analyze resident/guests parking at Muldoon's Irish Pub and surrounding commercial developments. The Project's parking analysis demonstrates that there is adequate on-site parking to accommodate demand from both residents and guests. The Appellant presents no evidence to the contrary.

Appellant Comment #8

- No community benefits provided to justify no affordable housing and no in-lieu fees

Response #8

The Appellant seems to believe that affordable housing, in-lieu fees, or some other community benefits should be imposed on the Project. However, such imposition would be inconsistent with the City’s current codes and policies, which (a) do not establish an inclusionary requirement (or in-lieu) fees, and (b) recognize that the construction of market-rate housing has a positive effect on housing supply citywide (and region-wide). The benefits of constructing high-quality housing in Newport Center are also recognized by the General Plan, which emphasizes the importance of housing toward creating the vibrant, pedestrian-friendly environment envisioned at Newport Center. A pedestrian-friendly environment will have multiple benefits, including (a) reducing vehicle miles traveled by locating housing in proximity to commercial/retail uses, and (b) increasing retail viability (and revenue, taxes) by driving patronage from nearby housing.

The Project also provides multiple community benefits. First, it provides 6,284 square feet of publicly accessible open space, which consists of three pocket parks located along Newport Center Drive and San Miguel Drive, as well as a courtyard located at the intersection of those streets. The Project’s publicly accessible open space exceeds the code-required open space by approximately 800 feet and will further enhance the pedestrian experience in Newport Center.

The Project will also result in the payment of approximately \$8.9 million dollars in parkland dedication fees to the City, which will be used to fund the future development of public parks and recreational facilities throughout the City. The Project also generates approximately \$4.8 million in development impact fees to fund the expansion of public facilities, including parks, police facilities, fire stations, and water and sewer infrastructure needed to maintain Newport Beach’s high quality of life.

Appellant Comment #9

- Aesthetics not compatible with surrounding uses, the architecture should be timeless

Response #9

The Appellant generically objects to the aesthetics of the Project, but fails to make any specific complaints. The aesthetics of the Project – specifically compatibility with surrounding uses – were thoroughly evaluated by the Project’s CEQA Guidelines Section 15183 Consistency Review. That analysis notes, among other things, that the Project “would comply with the applicable development standards addressing scenic quality....” The Project is also consistent with the maximum permitted height of 270 feet, as allowed by the Newport Beach Municipal Code. That height is also consistent with the tone of development in Newport Center, which has multiple

high-rise buildings. Moreover, based on staff's review (and confirmed by the Planning Commission's findings), the Project would "meet or exceed the City's ODS applicable to the Project." The ODS are intended to ensure the highest possible design quality and to provide a baseline standard for all new multi-unit development.

Appellant Comment #10

- No requirements for sales disclosures to include adjacency of existing uses with live music, i.e. Muldoon's/The Firm

Response #10

The Appellant's comment does not appear related to any alleged CEQA analysis inadequacy or inconsistency with applicable policy or standard. There are no requirements for the disclosure requested by Appellant. Furthermore, potential residents of the future towers would be aware of the surrounding urban environment, which includes retail shops, restaurants, a regional mall, and other similar uses. The Project would also be designed consistent with the California Building Code, which includes standards regarding interior noise attenuation design.

Also, the Planning Commission imposed Condition of Approval No. 21, which requires the Applicant to record a deed notification informing future residents that the residential units are located in a mixed-use project/area. Condition of Approval No. 22 similarly requires a written disclosure statement to be provided to owners/tenants prior to any sale or lease of units within the Project. The conditions are pasted below for reference.

21. *Prior to issuance of final building permits, the Applicant shall record a deed notification with the County Recorder's Office, approved as to form by the Office of the City Attorney, consistent with NBMC Section 20.48.130.I (Deed Notification). The Deed Notification shall state that residential units are located in a mixed-use project or in a mixed-use zoning district and that an owner may be subject to impacts, including inconvenience and discomfort, from lawful activities occurring on the project or zoning district (e.g. noise, late night hours, live entertainment, lighting, odors, high pedestrian activity levels, etc.). The deed notification language contained in this condition shall be copied into the CC&R's for the project.*
22. *Prior to building permit final, the Applicant shall prepare a written disclosure statement. The written disclosure statement shall be provided to owners and tenants prior to sale, lease, or rental of a residential unit in the proposed mixed-use development consistent with Section 20.48.130.H (Notification to Owners and Tenants) of the NBMC.*

Appellant Comment #11

- Lack of compliance with the new Newport Center height overlay

Response #11

The Project is consistent with the maximum height for the project site. On June 24, 2025, the City Council adopted Ordinance No. 2025-10, approving an amendment to Table 2-16 of Section 20.28.050 of the Newport Beach Municipal Code to revise the height limits for several properties within the HO-4 Subarea of the Housing Overlay. With that revision, the maximum height for the project site was increased to 270 feet. The Project is consistent with that maximum height.

Sincerely,

Cox, Castle & Nicholson LLP

A handwritten signature in black ink, appearing to read 'Sean Matsler', is centered below the typed name.

Sean Matsler
Of Cox, Castle & Nicholson LLP

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From: [Garrett, Errica](#)
To: [Dept - City Clerk](#)
Subject: FW: Regis Edwards Condominium project - 300 Newport Center Drive
Date: April 20, 2026 8:46:21 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)



Errica Garrett
Administrative Assistant
to the Mayor and City
Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660



From: Carol Conover <conovergirlies@gmail.com>
Sent: April 19, 2026 11:36 AM
To: Dept - City Council <CityCouncil@newportbeachca.gov>
Cc: Murillo, Jaime <JMurillo@newportbeachca.gov>; Jurjis, Seimone <sjurjis@newportbeachca.gov>
Subject: Regis Edwards Condominium project - 300 Newport Center Drive

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

I wish to express my deep concern for a few of details on this project:

#1: The reduced amount of parking approved for this site.

I have read the letter requesting a lower number of parking stalls. The required number by code is 389. The planning commission has allowed this project to provide only 343 - a reduction of 46 parking places. They have based this partially on the assumption that guests coming to the cafe and offices (ALL OF THEM) will be multi-tasking and will be parking at Fashion Island or the medical buildings and walking over or riding their bicycles. This is an unreal assumption (DUH!) and they will instead be trying to find parking in the already very busy parking lot of the 5 or 6 office buildings directly to the northeast of this project that the letter identified as free surface parking. That is

completely unfair abuse to those long-time business owners in your city!

By the way, I actually walked from Starbucks in Fashion Island to a movie at Big Newport the other day while my friends moved the car. It was not a terribly pleasant walk. One could easily get run over in the parking lot. Drivers are not looking for pedestrians.

#2 Loss of Open Space

I remember when we were all concerned about the loss of open space. What has happened to the environmentalists? Is it really okay to completely cover up all the ground with concrete and steel? There is a home for sale in my neighborhood that the broker says is not selling because the lot is completely built out and there is not even a place for a dog to pee. So where do the owners of these condos take their dogs multiple times a day? A paved-in courtyard is not sufficient.

#3 Height

You probably knew this was coming. My concern is that this is the FIRST tall building. Every building after these buildings and north of them will need to be taller to maximize the views. Seriously, let's start with 12 stories or thereabouts. We should NOT be starting at 22 stories!

It seems to me it would be rather simple to force the height of these buildings down to a size that can accommodate their code-mandated number of parking stalls. Plus, I would assume that this project doesn't count toward any of the City's required 4500 housing units, does it? I hope you do the right thing.

Carol Conover

From: [Garrett, Errica](#)
To: [Dept - City Clerk](#)
Subject: FW: PUBLIC HEARING APPEAL TUESDAY, APRIL 28 CITY COUNCIL MEETING 4PM - REGAL CINEMA CONDOS, 300 NEWPORT CENTER DRIVE
Date: April 22, 2026 7:36:11 AM
Attachments: [image001.png](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)



Errica Garrett

Administrative Assistant to
the Mayor and City Council
City Manager's Office
Office: 949-644-3004

100 Civic Center Drive
Newport Beach, CA 92660



From: Niall Saunders <niall@architectsoc.com>
Sent: April 21, 2026 5:31 PM
To: Murillo, Jaime <JMurillo@newportbeachca.gov>; Dept - City Council
<CityCouncil@newportbeachca.gov>
Subject: PUBLIC HEARING APPEAL TUESDAY, APRIL 28 CITY COUNCIL MEETING 4PM - REGAL CINEMA CONDOS, 300 NEWPORT CENTER DRIVE

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe. Report phish using the Phish Alert Button above.

Dear Mr. Murillo and City Council,

For the record I wish to express my opposition to the proposed two residential towers at the Regal Cinema site at Fashion Island. Projects of this magnitude should not be allowed to bypass the Greenlight initiative. Despite the "affordable housing" mandate, the residents of Newport Beach should still be permitted input into such bulky and traffic-heavy developments within their city. Please register my opposition and please implement a general vote on the project, per Greenlight.

Thank you

--

Niall F. Saunders AIA RIBA

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