

Attachment No. PC 1

Draft Resolution

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RESOLUTION NO. PC2025-021

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA UPHOLDING THE COMMUNITY DEVELOPMENT DIRECTOR'S APPROVAL OF MINOR CHANGES TO COASTAL DEVELOPMENT PERMIT NO. PA2024-0140 FOR THE REDEVELOPMENT OF FIRE STATION NO. 1 AND BALBOA BRANCH LIBRARY LOCATED AT 100 EAST BALBOA BOULEVARD (PA2025-0130)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the City of Newport Beach Public Works Division ("Applicant"), with respect to the property located at 100 East Balboa Boulevard and legally described as Block 2 of the East Newport Tract ("Property") requesting to uphold the Community Development Director's approval of Staff Approval No. PA2025-0130.
2. The Parks, Beach and Recreation ("PB&R") Commission held a public meeting on March 5, 2024, to consider the concept designs for the redevelopment of Fire Station No. 1 and Balboa Branch Library, as well as review recommendations for the removal of two diseased trees— a Blue Gum Eucalyptus tree and Canary Island Date Palm tree ("Special City Landmark Trees"). At the public meeting, the PB&R Commission approved the removal of the two diseased trees due to their decaying advancement rate.
3. On June 14, 2024, Christopher Pitet ("Appellant"), representing The Friends of the Library Park, filed an appeal of the PB&R Commission's decision to remove the Blue Gum Eucalyptus tree to the City Council. Appellant did not contest the removal of the Canary Island Date Palm tree.
4. A public hearing was held on September 24, 2024, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the 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 City Council at this hearing. At the public hearing, the City Council reviewed the appeal for the removal of the tree, as well as a coastal development permit ("CDP") for the redevelopment of the fire station and library. Several members of the public, including the appellant, spoke in opposition to the project. The comments discussed the appropriate California Environmental Quality Act ("CEQA") exemptions for the CDP, the potential impact that the redevelopment could have to bird habitats on the Property, compliance with City Council Policy G-1, preservation of the Blue Gum Eucalyptus tree, and the project's design layout. Subsequent to the public comments, the City Council adopted Resolution No. 2024-72, approving Coastal Development Permit No. PA2024-0140, authorizing the demolition and reconstruction of the fire station and library. The City Council also denied the appeal and upheld the PB&R decision to remove the two diseased Special City

Landmark Trees. In accordance with Section 20.10.040(A) (Applicability of Zoning Code) of the NBMC, the project was exempted from Title 20 permitting requirements.

5. On October 24, 2024, the Appellant filed an appeal of the CDP with the California Coastal Commission (“CCC”), citing concerns about the removal of the diseased Blue Gum Eucalyptus tree and the potential displacement of nesting Great Blue Herons. In consideration of the appeal application, the City and CCC staff worked collaboratively on appropriate revisions to the approved CDP landscape plan which would provide modified tree species to better support nesting birds. The CCC has not made a final determination on the Appellant’s appeal of the CDP.
6. On July 3, 2025, the Community Development Director approved Staff Approval No. PA2025-0130 for landscape and parking layout changes to CDP No. PA2024-0140, collectively referred to as the “Project.” These changes address the CCC’s concerns regarding the displacement of nesting birds. The Project includes replacing the Catalina Ironwood trees along Island Avenue and the California Sycamore trees along East Bay Ave with Western Sycamore trees. Additionally, the planting areas within the parking lot along East Bay Avenue will feature a Sweetshade tree and an Australian Willow tree, replacing the originally proposed California Sycamores. The revised landscape changes will alter the parking layout and result in the loss of one surplus parking space.
7. On July 18, 2025, the Appellant filed an appeal of the Project. The Appellant objected to the CEQA exemptions utilized citing concerns that the replacement trees are insufficient for nesting birds, and that the Project does not protect environmentally sensitive habitat areas (“ESHA”).
8. The Property is designated Public Facilities (PF) by the General Plan Land Use Element and is located within the Public Facilities (PF) Zoning District.
9. The Property is located within the coastal zone. The Coastal Land Use Plan (“CLUP”) category is Public Facilities (PF), and the Property is located within the Public Facilities (PF) Coastal Zoning District.
10. The Project entails minor changes and does not include or propose any change in the density or intensity of land use when compared to the approved CDP. Therefore, the Project is not considered development as defined in NBMC Chapter 21.70 (Definitions). For this reason, a new CDP is not required.
11. A public hearing was held by the Planning Commission on September 18, 2025, in the City Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of the time, place, and purpose of the hearing was given in accordance with California Government Code Section 65950 *et seq.* (“Ralph M. Brown Act”) and Chapter 20.62 (Public Hearings) and Chapter 21.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to and considered by the Planning Commission at this hearing

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from CEQA under Section 15302 under Class 2 (Replacement or Reconstruction) 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 2 exemption applies to the replacement or reconstruction of existing structures where the new structure will be located on the same site as the structure being replaced and substantially have the same purpose and capacity. In this case, the originally approved CDP identified the demolition and reconstruction of the fire station and library. The Project is substantially conforming to the scope of the approved CDP, which is the replacement or reconstruction of an existing library and fire station with a new library and fire station on the same project site. Therefore, the intent of Class 2 is being met and the Project's minor changes to landscaping and parking will not affect the Class 2 exemption.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Pursuant to Section 21.54.070 (Changes to an Approved Coastal Development Permit) of the NBMC, the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use without a public hearing following findings and facts in support of such findings are set forth:

Finding:

- A. *The changes are consistent with all applicable provisions of this Implementation Plan;*

Facts in Support of Finding:

1. The Property is located in the PF General Plan Land Use Plan Category, Coastal Land Use Plan Category, Zoning District, and Coastal Zoning District. These designations are intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The Property is currently developed with a fire station and library and will be reconstructed to operate in the same manner. The Project's minor changes related to landscaping and parking do not alter the Property's land use and remain consistent with the intent of the PF designations.

2. As conditionally approved in the CDP, the landscape plan is required to comply with Section 21.30.075 (Landscaping) of the NBMC. The Project revisions replace certain tree species for the purpose of supporting nesting birds, which will continue to comply with Section 21.30.075 (Landscaping) of the NBMC and do not include any invasive species. Although the revised landscape plan will alter the Property's parking layout and result in the loss of one surplus parking space, the Property will continue to provide sufficient on-site parking.
3. A Tree Evaluation Report, dated May 5, 2025, was prepared by Dudek Consultants to assist the City in preparation of a revised landscape plan. The report, which was prepared by a biologist and urban forester, recommended the use of the Western Sycamore tree species due to its ecological value, compatibility with the Southern California climate, and structural suitability for nesting birds, such as Blue Herons. The report noted that mature eucalyptus trees located directly across from the Property at the intersection of Island Avenue and West Bay Avenue, provide the size, height, and structural characteristics, which are well-suited locations for heron nesting during the reconstruction and replanting phase of the Project. An existing hoop pine tree, which is located in the median southeast of the library, also provides viable nesting options. The report notes that these trees should help minimize disruption to the nesting cycle during the Project's reconstruction while the newly planted trees mature and develop sufficient canopy coverage to support long-term habitat needs. The Project utilizes the recommendations of the report and has provided an updated landscape plan that better serves nesting birds.
4. As conditionally approved in the CDP, the demolition and reconstruction of Fire Station No.1 and Balboa Branch Library are subject to comply with the Migratory Bird Treaty Act ("MBTA"), which is intended to ensure the sustainability of populations of all migratory bird species. Additionally, the Applicant is required to conduct a pre-construction nesting survey prior to the demolition of the structures. The survey allows the Applicant to identify areas with active nests and to create buffers to protect the nests from disturbance during construction. The Project, which provides an updated landscaping plan and parking layout, will not affect compliance with these conditions of approval.

Finding:

- B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project;*

Facts in Support of Finding:

1. The Project primarily affects landscaping which is intended to provide additional support to bird nesting habitats. No alterations to the CDP's approved floor area, height, or use are being requested. While the Project will result in the loss of one parking space, the Property will continue to provide sufficient on-site parking. The Project is substantially conforming to the scope of the approved CDP, which is the replacement or reconstruction of an existing library and fire station with a new library and fire station on

the same site. Therefore, the requested changes will not affect the Class 2 (Replacement or Reconstruction) exemption under the CEQA Guidelines.

2. The findings set forth in Section 2 (California Environmental Quality Act Determination) above are hereby incorporated for reference.

Finding:

- C. *The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval;*

Facts in Support of Finding:

1. The Project's proposed parking layout, which removes one surplus parking space, does not involve a feature that was specifically conditioned or addressed by the approved CDP.
2. While the Project modifies certain proposed tree species to provide added support to nesting birds, the revised landscape plan will continue to be consistent with Title 21 landscape standards. Therefore, the Project complies with Condition of Approval No. 14 of the approved CDP, which requires the Applicant to submit a final landscape and irrigation plan prior to the issuance of a building permit.

Finding:

- D. *The changes do not result in an expansion or change in operational characteristics of the use;*

Facts in Support of Finding:

1. The approved CDP authorized the demolition of the Balboa Branch Library and Fire Station No. 1, along with the removal of two diseased trees, to allow for the construction of a new City fire station and library. The Project's revisions do not change the approved use, height, or floor area of the CDP. While the Project's changes will result in the loss of one surplus parking space, the Property will continue to provide sufficient on-site parking.

Finding:

- E. *Do not alter the facts in support of the findings required by Section 21.52.015(F) and any other application section of this Implementation Plan.*

Facts in Support of Finding:

1. The Project's revisions will not alter the original facts in support of the findings that were made to support the CDP's approval given that the changes are primarily affecting landscaping and parking.
2. On August 14, 2025, a memorandum was prepared by Dudek Consultants which discussed the protection status of nesting Great Blue Herons. Section 21.30B.030 (Environmentally Sensitive Habitat Areas) of the NBMC, defines ESHA as any area in which plant or animal life, or their habitats are either rare or are especially valuable because of their special nature or role in an ecosystem that could easily be disturbed or degraded by human activities and developments. The memorandum clarifies that while Great Blue Herons are provided protection under the MBTA, particularly while nesting, it is not federally listed as threatened or endangered under the Federal Endangered Species Act (FESA). Therefore, the Great Blue Heron is not a federally protected species and is considered a secure species, in California as well as globally, according to the California Department of Fish and Wildlife Natural Diversity Database. The memorandum also states that Great Blue Herons that nest on site are only protected while actively nesting and rookeries are not protected further.
3. The August 14, 2025, Dudek Consultants memorandum also evaluated whether the Blue Gum Eucalyptus tree qualifies as an ESHA. The memorandum states that the tree is not an ESHA and supports that its removal is not detrimental since it does not play a special role in an ecosystem given that it is located in a developed area as ornamental landscaping. The tree is also not a rare species and is non-native.
4. Additionally, Section 21.30B.030 (A)(1) (Environmentally Sensitive Habitat Areas – Exceptions) includes exceptions and states that ESHAs do not include existing developed areas. The Balboa Branch Library was constructed in 1929. A fire station was added to the existing library and has been operating as Fire Station No. 1 since 1962. The two buildings total approximately 7,930 square feet and are surrounded by residential, commercial, and mixed-used development. The August 14, 2025 Dudek memorandum affirms that the Property and eucalyptus tree qualify as exceptions under Section 21.30B.030(A)(1) of NBMC due to the Property's status as existing development. The memorandum also states that the Property lacks natural communities, coastal streams, rare plants or wildlife, and connectivity to other natural areas given that it is surrounded by development.
5. The Property is also not identified as one of the twenty-eight Environmental Study Areas within the City under Figure NR2 (Environmentally Study Areas) of the General Plan's Natural Resources Element. Additionally, the Property is not identified as a site with Biological Resources under General Plan Figure NR1 (Biological Resources) of the Natural Resources Element.
6. While existing trees on the Property will be removed, the Project provides proper mitigation by proposing a tree species that supports heron nesting. The future removal of the eucalyptus tree and any remaining nests would be conducted outside of the

nesting season (February through August) and after there is no active nesting, as determined by a biologist. Overall, the Project's revised changes continue to comply with the MBTA.

7. Fact 3 in support of Finding A above is hereby incorporated by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15302 under Class 2 (Replacement or Reconstruction) 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 Planning Commission of the City of Newport Beach upholds the Community Development Director's approval of Staff Approval No. PA2025-0130, subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 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 by the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 18TH DAY OF SEPTEMBER, 2025.

AYES:

NOES:

ABSTAIN:

ABSENT:

BY: _____
Tristan Harris, Chair

BY: _____
Jon Langford, Secretary

EXHIBIT “A”

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

1. *All previous conditions of approval for Coastal Development Permit No. PA2024-0140 shall remain in full force and effect.*
2. The development authorized by the Staff Approval filed as PA2025-0130 shall be in substantial conformance with the revised landscape plan.