



**CITY OF**

---

---

# **NEWPORT BEACH**

## **City Council Staff Report**

July 14, 2026  
Agenda Item No. 12

**TO:** HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

**FROM:** Jaime Murillo, Community Development Director - 949-644-3209,  
jmurillo@newportbeachca.gov

**PREPARED BY:** Daniel Kopshever, Assistant Planner - 949-644-3235,  
dkopshever@newportbeachca.gov

**TITLE:** Resolution No. 2026-52: 2350 Bristol Street Driveway Access  
Appeal (PA2025-0112)

---

**ABSTRACT:**

For the City Council's consideration is an appeal of the Planning Commission's March 19, 2026, decision to deny a staff approval allowing employee and delivery driver use of an existing rear emergency access driveway connecting the property at 2350 Bristol Street to Zenith Avenue. The Applicant contested that unrestricted use of the driveway was consistent with the original entitlements for the site issued by the County of Orange (Use Permit No. UP86-21P and Site Development Permit No. SP86-52P). The appeal was filed on April 2, 2026, by Maryam Parman of Avrek Law firm.

**RECOMMENDATIONS:**

- a) Conduct a de novo public hearing;
- b) Find this action exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 as projects which a public agency rejects or disapproves are not subject to CEQA review; and
- c) Adopt Resolution No. 2026-52, *A Resolution of the City Council of the City of Newport Beach, California, Denying an Appeal and Upholding the Decision of the Planning Commission to Deny Employee and Delivery Vehicle Use of an Emergency Access Driveway at an Existing Professional Office Building Located at 2350 Bristol Street Driveway Access (PA2025-0112).*

**DISCUSSION:**

The project site is located within the Santa Ana Heights neighborhood and is bounded to the north by Bristol Street, professional office buildings to the east, Zenith Avenue and residential neighborhood to the south, and vacant parcels to the west. The project site is developed with an 18,136-square-foot, three-story professional office building originally constructed in 1987. The building is served by a 65-space parking lot, with a portion of the parking located under the upper levels of the building with the remainder provided in a surface lot behind the building. Vehicular access to the site is provided by a driveway on Bristol Street. As shown in Figure 1, there is an additional driveway near the southwest corner of the property, connecting the project site to Zenith Avenue (Zenith Driveway).

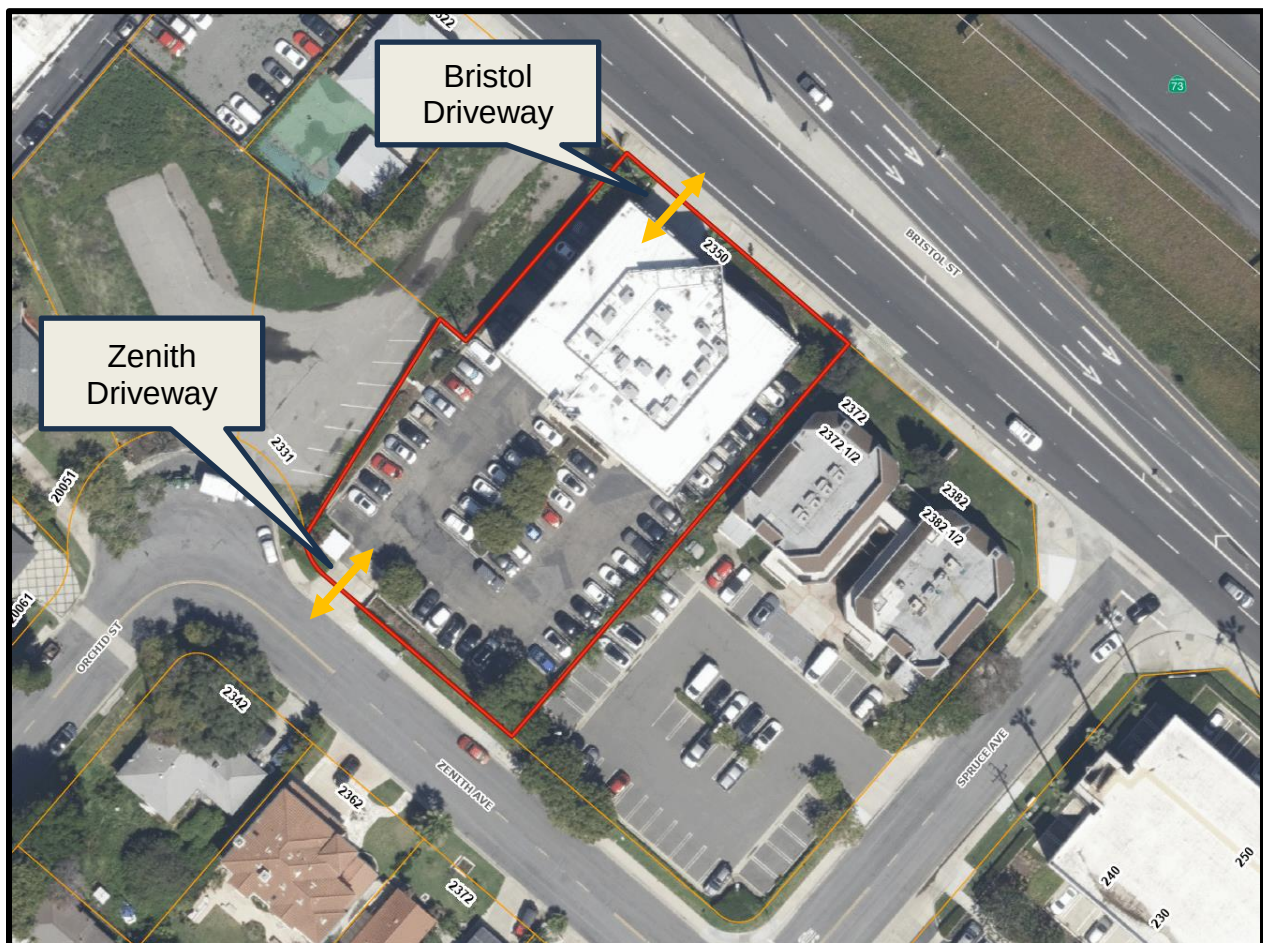


Figure 1, Aerial photograph of the Project Site

**Project Background and Original Approvals**

The project site was originally within the jurisdiction of the County of Orange (County) before being annexed into the City of Newport Beach (City) in September 2002. The existing development was approved by the County Board of Supervisors on August 20, 1986, pursuant to Use Permit No. UP86-21P and Site Development Permit No. SP86-52P (Original Approvals). The Original Approvals include two approved site plans, Option A and Option B, both depicting a driveway at the southwest corner of the property (Zenith

Driveway) with a clear note stating, “Conc. Bollards – Movable for Emergency Access”. Although the Board of Supervisors approved both site plans, they issued a single resolution with one set of Conditions of Approval.

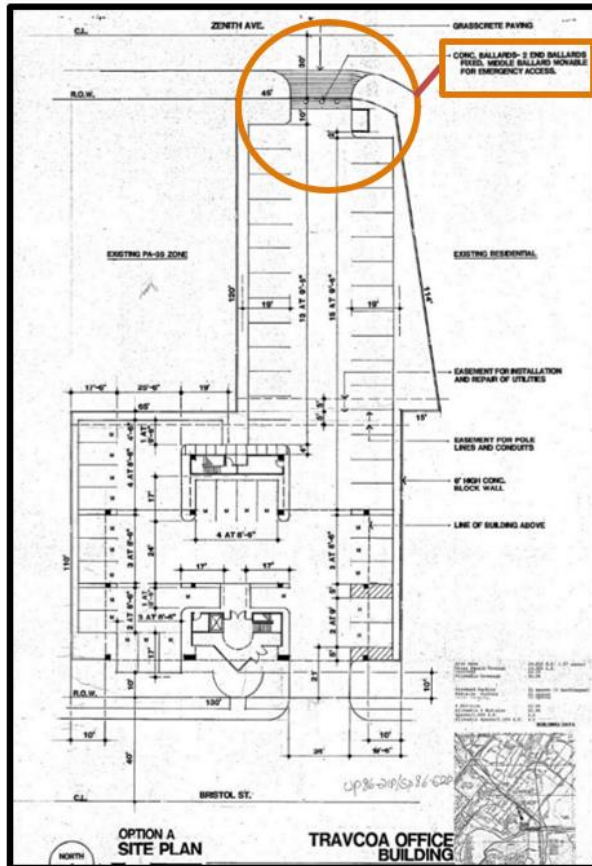


Figure 2, Site Plan A

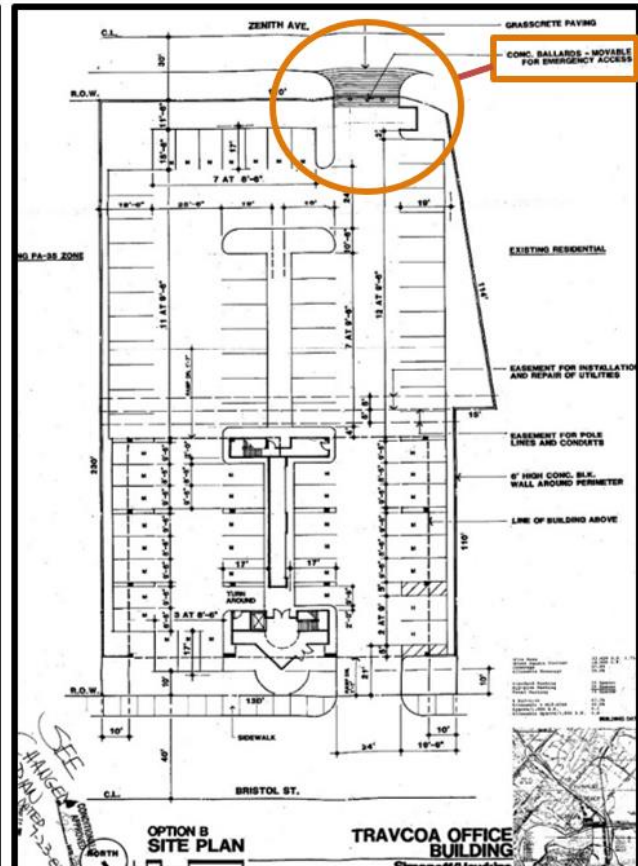


Figure 3, Site Plan B

Following the Original Approvals, a revised plan stamped and dated July 23, 1987, was submitted proposing an unrestricted driveway configuration in place of the approved emergency access design. The unrestricted access was expressly rejected, as there is a large “X” through the revised design for the Zenith Driveway accompanied by a handwritten notation directing the reader to the original approval and to a subsequent Controlled Emergency Access Plan approved by the Orange County Fire Prevention Bureau. The Controlled Emergency Access plan, stamped and dated July 18, 1990, depicts the Zenith Driveway secured with a heavy-duty chain and a lock, keyed for Fire Department access. Ultimately the Zenith Driveway was constructed with a sliding gate, which is consistent with restricted access.





Beginning in December 2024, the City's Code Enforcement Division began receiving complaints regarding employee use of the Zenith Driveway and issued a Notice of Violation on December 18, 2024, for violation of Section 10.50.020(H) (Nuisance – Violation of Permit) of the NBMC.

In response, the Applicant submitted a proposal to allow employees and delivery vehicles to use the Zenith Driveway (Project), asserting that such use is consistent with the Original Approvals. While Section 20.54.070 (Changes to an Approved Project) of the NBMC allows the Community Development Department director (Director) to authorize minor changes to an approved plan, the Director referred the Project to the Planning Commission for review, pursuant to Section 20.12.020 (Rules of Interpretation) of the NBMC, to allow for additional notice and engagement of the affected surrounding property owners.

### Planning Commission Hearing and Decision

On March 19, 2026, the Planning Commission conducted a public hearing on the Project. Eight members of the public spoke in opposition, raising concerns of impacts to the adjacent residential neighborhood resulting from use of the Zenith Driveway for employees and delivery vehicle access. Eight members of the public who work at the subject property spoke in favor of the Project, citing safety concerns with the high speeds on Bristol Street. The Planning Commission expressed several concerns with the Applicant's request, summarized as follows:

1. Emergency Access Restriction is Unambiguous: The evidence in the record supported the determination that the Original Approvals clearly and unambiguously restricted the Zenith Driveway to emergency access only.
2. Incomplete Application: The application lacked substantive materials including a traffic analysis, needed for staff to fully evaluate and make the required findings.
3. Safety Concerns: Any safety concerns raised by the Applicant could be addressed with a complete application required for the staff approval request.

At the close of the public hearing, the Planning Commission determined that the use of the Zenith Driveway would not be consistent with the original approvals nor with Section 20.54.070 of the NBMC and voted unanimously to deny the Project, with a vote of 5 ayes, 0 nays, and 0 abstentions. The Planning Commission staff report, resolution and minutes are included as Attachments B, C and D.

### Appeal

On April 2, 2026, the Applicant filed a timely appeal of the Planning Commission's decision, citing three primary grounds: (A) the existing uses are vested, and (B) the existing entitlements do not limit use of the Zenith Driveway to emergency vehicles only,

and (C) the Application was superfluous as the Property already possesses the necessary approvals from the County to use and operate the Zenith Driveway for ingress and egress.

In conjunction with the appeal grounds listed above, the Applicant provided the following to justify the Project:

1. The application was superfluous;
2. The City has waived any defenses that the application was incomplete;
3. The Zenith Driveway is not restricted to emergency vehicles only and the County already determined (via resolution) there are no impacts to other uses within the vicinity nor to public health, safety or welfare;
4. Both driveways are necessary for the Property's safe operations;
5. The continued use of the Zenith Driveway is vested, may constitute a legal non-conforming use, and the City is estopped from challenging the County approvals 40 years later;
6. Other nearby properties have two driveways - one within close proximity to Zenith Avenue;
7. Any decision to limit or revoke the use of the Zenith Driveway would constitute a compensable taking, a dangerous condition, and a substantial impairment of access to the Property;
8. The Owner is still waiting for public records from the County of Orange Department of Public Works, and the Orange County Board of Supervisors related to the Orange County Board of Supervisors' resolution and Bristol Street operations, accidents, etc.;
9. The application is not necessary and non-emergency Zenith Driveway use is existing and should continue.

The complete appeal application and justification is provided as Attachment E.

Pursuant to Section 20.64.030(C)(3) (Conduct of Hearing) of the NBMC, a public hearing on an appeal is conducted "de novo," meaning that it is a new hearing and the prior decision of the Planning Commission to deny the Project has no force or effect. The City Council is not bound by the Planning Commission's prior decision, nor is it limited to the issues raised by the appeal.

### Response to Appeal

The Appellant raises several arguments in support of the appeal, including that the existing use of the Zenith Driveway is legally established, the Original Approvals did not limit the driveway to emergency access, the requested application was unnecessary, and restricting employee and delivery vehicle access would adversely affect the operation of the property.

Staff reviewed the Original Approvals, conditions of approval, historic building permits, and supporting documentation submitted by the Appellant. Based on this review, staff determined that the Zenith Driveway was approved as controlled emergency access only rather than for unrestricted use by employees and delivery vehicles. Code Enforcement

complaints regarding employee use of the Zenith Driveway further reflect operational impacts inconsistent with the emergency access only entitlement. Consequentially, the requested operational change requires City approval as a modification to the previously approved project.

The Appellant also contends that the Property requires unrestricted use of both driveways for safe operations and that similar driveway configurations exist on nearby properties. However, the building has operated for decades with primary access from Bristol Street and controlled emergency access to Zenith Avenue. The evidence submitted does not demonstrate that the site cannot continue to operate using its approved primary access from Bristol Street. Each property is subject to its own land use approvals and operational requirements, and the presence of additional driveways on neighboring properties does not establish a basis for modifying the conditions applicable to the Project Site.

The Appellant further argues that continued use of the Zenith Driveway is vested, that limiting its use would constitute a taking, and that the City is precluded from interpreting the Original Approvals after several decades. These assertions are not supported by the record. The Property remains fully operational for office use, thus, maintaining the economic viability. Moreover, it does not eliminate access in that the Property retains primary access from Bristol Street and emergency access to Zenith Avenue, preserving reasonable access in accordance with the original approvals. The requested change would modify the approved operation of the site, and the City Council's action would interpret and apply the existing conditions of approval rather than a regulatory taking.

The Appellant references pending public records requests and other procedural matters. These issues do not affect the merits of the appeal, which are based on the approved plans, conditions of approval, applicable Municipal Code requirements, and the evidence contained in the administrative record.

Finally, the request for unrestricted access to Zenith Avenue directly conflicts with Subsection 20.90.190(B) (Public Improvements – Circulation Plan) of the NBMC . This Subsection acknowledges that Santa Ana Heights has long been heavily impacted by nonresidential traffic attempting to avoid congested conditions on surrounding arterials. A primary consideration of the Circulation Plan was the reduction of traffic within residential areas. The Circulation Plan continues that, with the development of business park uses adjacent to residential uses, another consideration was the separation of business park and residential traffic.

For the reasons discussed above and detailed further in the attached resolution, staff concludes that the required findings for approval of the Project cannot be made and recommends that the City Council deny the appeal and uphold the Planning Commission's decision.

#### **FISCAL IMPACT:**

There is no fiscal impact related to this item.

**ENVIRONMENTAL REVIEW:**

Staff recommends the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15270 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, as projects which a public agency rejects or disapproves are not subject to CEQA review.

**NOTICING:**

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item). Notice of this hearing was published in the Daily Pilot, mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways), including the applicant, and posted on the subject property at least 10 days before the scheduled meeting, consistent with the provisions of the NBMC. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the City website.

**ATTACHMENTS:**

Attachment A – Resolution No. 2026-52

Attachment B – March 19, 2026, Planning Commission Staff Report

Attachment C – Planning Commission Resolution No. PC2026-008

Attachment D – March 19, 2026, Planning Commission Minutes

Attachment E – Appeal Application and Justification

Attachment F – Project Plans