

Attachment E

Planning Commission Staff Report from
September 18, 2025 (No Attachments)



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

September 18, 2025
Agenda Item No. 4

SUBJECT: Fire Station No.1 and Balboa Branch Library Landscape Changes
Appeal (PA2025-0130)
▪ Staff Approval

SITE LOCATION: 100 East Balboa Boulevard

APPELANT: Christopher L. Pitet on behalf of The Friends of Library Park

APPLICANT: City of Newport Beach – Public Works Department

OWNER: City of Newport Beach

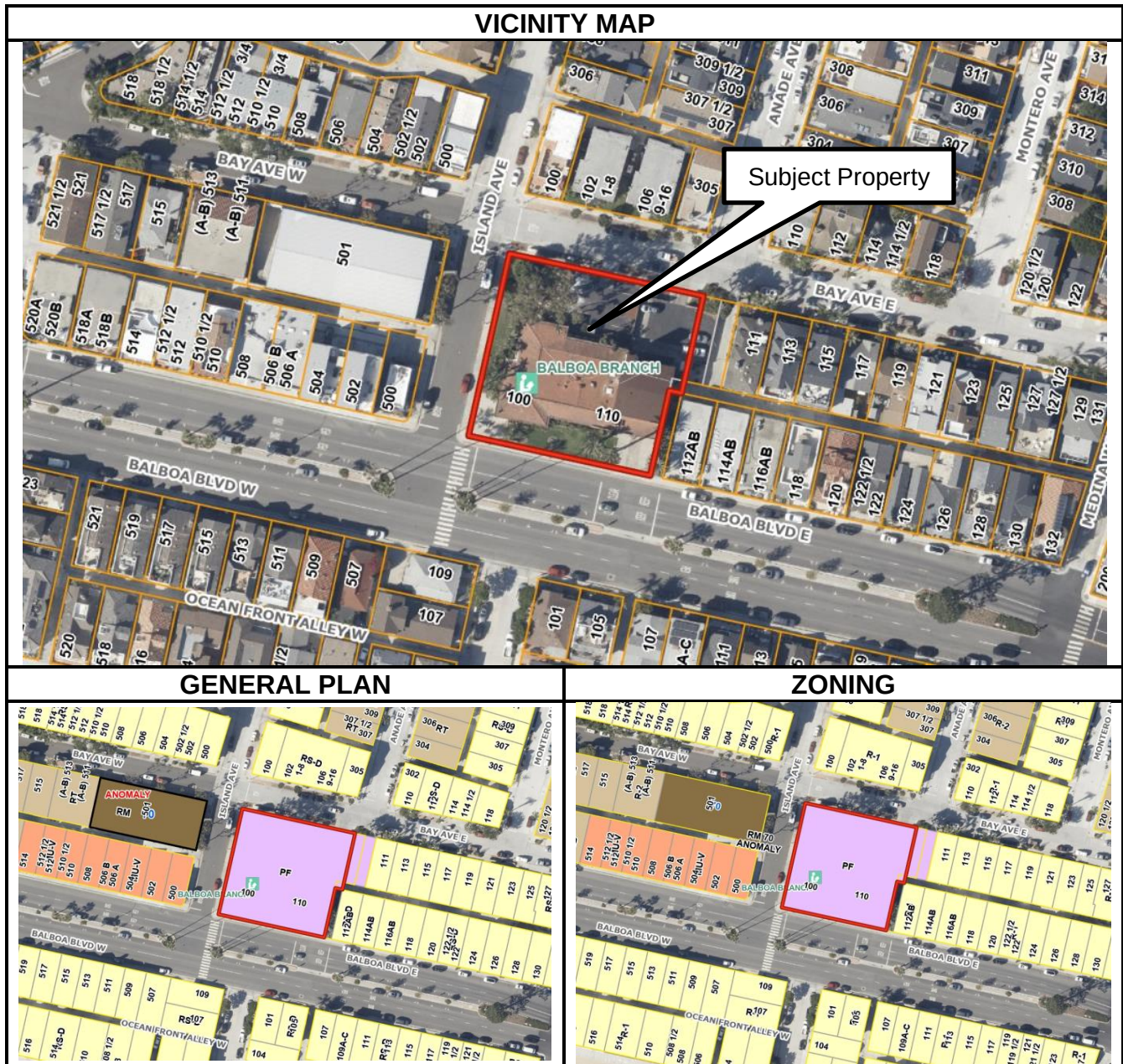
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PROJECT SUMMARY

An appeal of the Community Development Director's July 3, 2025, decision to approve minor changes to Coastal Development Permit (CDP) No. PA2024-0140. The CDP was previously approved by City Council on September 24, 2024, for the demolition and reconstruction of the City's Fire Station No.1 and Balboa Branch Library. The City Council also approved the removal of two diseased trees located within the property. The minor changes approved by the Director modified the previously approved landscaping plans by proposing replacement of tree species to further support nesting birds such as great blue herons. The changes will alter the parking layout and result in the loss of one surplus parking space.

RECOMMENDATION

- 1) Conduct a de novo public hearing;
- 2) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment; and
- 3) Adopt Resolution No. PC2025-021 denying the appeal and affirming the Community Development Director's approval for Staff Approval filed as PA2025-0130 (Attachment No. PC 1).



LOCATION	GENERAL PLAN	ZONING	CURRENT USE
ON-SITE	Public Facilities (PF)	Public Facilities (PF)	Fire Station and Library
NORTH	Single Unit Residential Detached (RS-D)	Single-Unit Residential (R-1)	Single- and multi-unit dwellings
SOUTH	RS-D	R-1	Single-unit dwellings
EAST	RS-D	R-1	Single- and two-unit dwelling
WEST	Mixed-Use Vertical (MU-V) Multiple Residential (RM)	Mixed-Use Vertical (MU-V) Multiple Residential (RM)	Restaurant and parking structure

INTRODUCTION

Project Setting and Background

The existing Balboa Branch Library and Fire Station No. 1 facility is located on the Balboa Peninsula, at 100 and 110 East Balboa Boulevard. 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. Both facilities total approximately 7,930 square feet of gross floor area (Figure 1, below). In 2021, an assessment evaluating the facilities' condition was conducted, and both facilities were rated as "poor" condition due to age-related and environmental deterioration. Given that the property's location is in the Coastal Zone, the reconstruction of the existing facilities requires a CDP.



*Figure 1: Existing Fire Station No.1 and Balboa Branch Library
(as viewed from East Balboa Boulevard)*

On March 5, 2024, the Parks, Beaches, and Recreation Commission (PB&R) approved the removal of two Special City Landmark trees – a Blue Gum Eucalyptus and a Canary Island Date Palm, located on the subject property, due to disease and the decaying advancement rate (Figure 2, below).



Figure 2 (above): Oblique Aerial Image of Property

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. The appeal outlined concerns that the removal of the tree fails to comply with the California Environmental Quality Act (CEQA) and City Council Policy G-1. Additionally, that the removal will affect great blue herons that nest on the tree.

On September 24, 2024, the City Council denied the appeal and upheld the PB&R Commission's decision to remove the two diseased Special Landmark trees. The City Council also approved a CDP for the demolition and reconstruction of the library and fire station, which is proposed to be 33 feet 6 inches tall, approximately 10,900 square feet in floor area and includes the installation of a 3,675-square-foot green space and a 1,500-square-foot playground area (Figure 3, below). The approved resolution is included as Attachment No. PC 2.



Figure 3: Renderings of Proposed Fire Station No.1 and Balboa Branch Library from East Balboa Boulevard (above) and from the proposed parking lot (below)



On October 24, 2024, the CDP was appealed to the California Coastal Commission (CCC) by Chris Pitet, on behalf of The Friends of Library Park, due to concerns about the removal of a Blue Gum Eucalyptus tree and the potential displacement of nesting great blue herons. Subsequent to the appeal being filed, the City and CCC staff worked collaboratively on appropriate revisions to the approved CDP landscape plan which would provide specific tree species planted to better support nesting birds.

Staff Approval for Minor Changes

On July 3, 2025, the Community Development Director approved Staff Approval No. PA2025-0130 for minor changes to the landscape plans of the approved CDP (Attachment No. PC 3), with the intention to address the CCC's concerns of the appeal and to better support nesting birds. The changes to the landscape plan include 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 plan will alter the parking layout and result in the loss of one surplus parking space (Figure 4, below). The originally approved landscape plan is included as Attachment No. PC 4 and the revised landscape plan is included as Attachment No. PC 5.

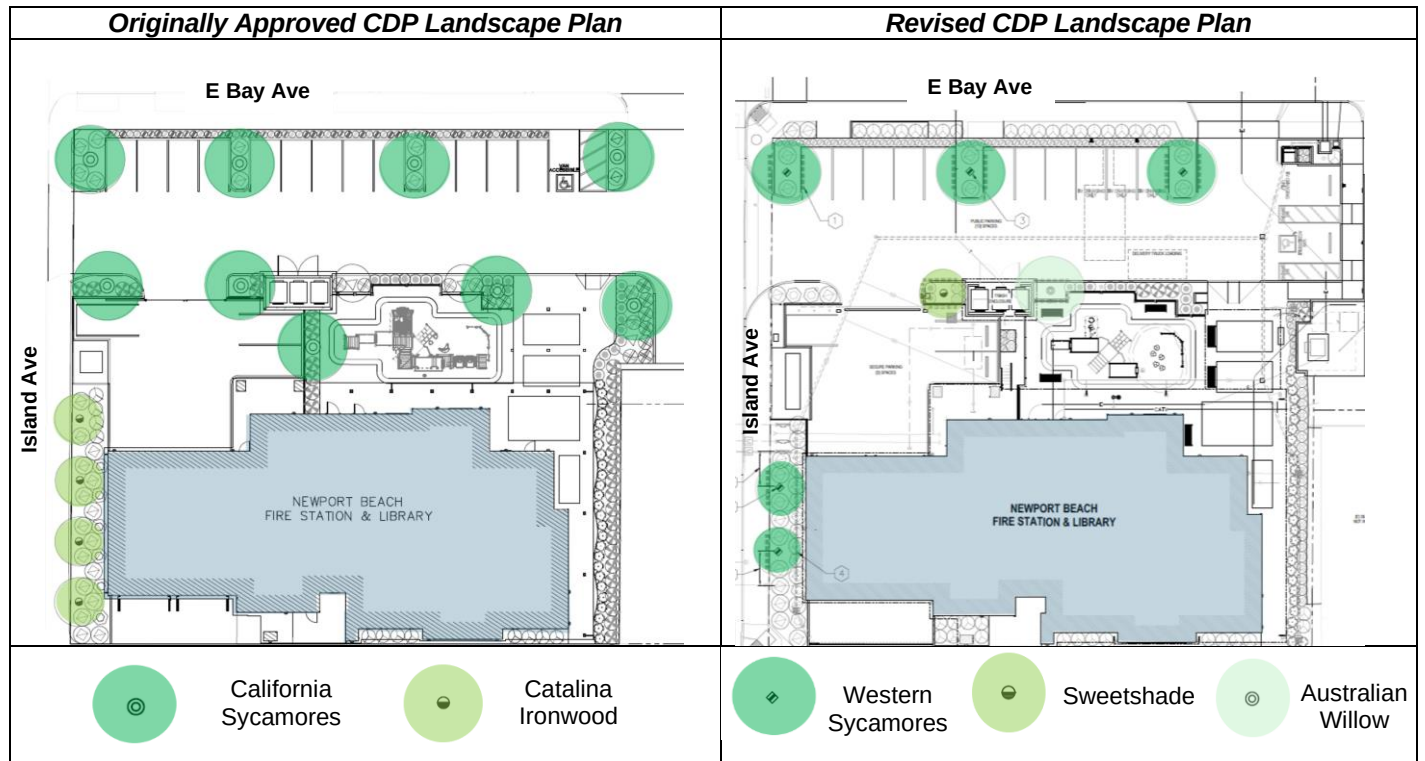


Figure 4: Comparison of the Original and Revised Landscape Plan

Appeal of Staff Approval

On July 18, 2025, Chris Pitet, on behalf of The Friends of Library Park, filed an appeal of the Staff Approval to the Planning Commission. The appellant cited objection towards the CEQA exemptions utilized, concerns that the replacement trees are insufficient for nesting birds, and that the project does not protect environmentally sensitive habitat areas (ESHA). The appellant's appeal application is included as Attachment No. PC 6.

Conduct of Hearing

Pursuant to Municipal Code Section 20.64.030.C.3 (Conduct of Hearing), a public hearing on an appeal is conducted "de novo," meaning that it is a new hearing. The prior action of the Community Development Director to approve Staff Approval No. PA2025-0130 has no force or effect. The Planning Commission is not bound by the Community Development Director's prior decision.

DISCUSSION

General Plan, Zoning Code, and Local Coastal Plan

The property is categorized as Public Facilities (PF) by the General Plan Land Use Element, Planning and Zoning Code (Title 20), Coastal Land Use Plan, and Local Coastal Program Implementation Plan (Title 21). The PF categories are intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The property has been historically used as a fire station and library and will continue to operate in that manner. Therefore, the uses are consistent with the PF categories.

Zoning Code Requirements and Coastal Development Permit

Due to the property being located within the Coastal Zone, the reconstruction of the fire station and library required a coastal development permit. Typically, projects in the PF zoning district are also required to obtain a use permit to establish development standards and undergo a major site development review when a project proposes to go over the maximum allowable height within the Nonresidential Shoreline Height Limitation Zone. However, on September 24, 2024, pursuant to Section 20.10.040(A) (Applicability of Zoning Code) of the Newport Beach Municipal Code (NBMC), the City Council exempted the project from the use permit requirements under Title 20 and approved a coastal development permit (CDP). The CDP subsequently established the project's development standards. Along with the CDP approval, the City Council upheld the PB&R's decision to remove two diseased Special Landmark Trees.

Additionally, the CDP's landscape plan is required to comply with Subsection 21.30.075 (Landscaping) of Title 21 of the NBMC. The revised landscape plan proposes certain tree species for the purpose of supporting nesting birds, which will continue to comply with the Title 21 landscape standards, 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.

California Coastal Commission (CCC) Staff Feedback and Additional Analysis

Since the CDP was appealed to the CCC, a subsequent review of the project was conducted by CCC staff. The appellant cited concerns about the removal of the Blue Gum Eucalyptus tree and the potential displacement of nesting great blue herons. As a result, the City and Coastal Commission staff collaborated on landscape alternatives that would best support nesting birds such as great blue herons. The Coastal Commission staff's biologist recommended that City staff consider using Eucalyptus, Cypress, Western Sycamores, and Big Cone Spruce as alternative tree species to mitigate the removal of nesting trees on the property. Additionally, a Tree Evaluation Report, dated May 5, 2025, was prepared by Dudek Consultants in order to assist the City in preparation of a revised landscape plan (Attachment No. PC 7). The report was prepared by a biologist and urban forester.

Subsequently, the revised landscape plan is based on the report's recommendations to better serve nesting birds. A detailed analysis of the report is provided below in the Response to Appeal Section.

Condition of Approval Nos. 3 and 4 of the CDP, requires that the demolition and reconstruction of Fire Station No.1 and Balboa Branch Library comply with the Migratory Bird Treaty Act, 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.

Staff Approval Findings

Pursuant to NBMC Section 21.54.070 (Changes to an Approved Coastal Development Permit), 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, and waive the requirement for a new coastal development permit. In this case, since the Staff Approval authorized by the Director has been appealed, the Planning Commission must determine that the proposed changes are in substantial conformance with CDP No. PA2024-0140 because the project's changes:

- a. *Are consistent with all applicable provisions of this Implementation Plan;*
- b. *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;*
- c. *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;*
- d. *Do not result in an expansion or change in operational characteristics of the use; and*
- 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.*

As previously discussed, the property is located in the PF Coastal Zoning District, which is intended to provide public facilities. The property has historically been used as a fire station and library, which will be reconstructed to operate with the same land use. The purpose of the Staff Approval is to revise the approved landscape plan to replace certain tree species for the purpose of supporting nesting birds. The landscape plan complies with the standards of the Implementation Plan and does not include any invasive species. Additionally, the CDP requires the project construction to comply with the Migratory Bird Treaty Act (MBTA), which is intended to ensure the sustainability of populations of all migratory bird species. The City is required to conduct a pre-construction nesting survey

prior to the demolition of the existing structures, which identifies and protects areas with active nests from disturbance during construction.

Since the Staff Approval primarily affects landscaping, no alterations to the proposed fire station and library's approved floor area, height, or use are being requested. 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 requested changes will not affect the Class 2 (Replacement or Reconstruction) exemption under the CEQA Guidelines, nor does it result in an expansion or change in operational characteristics of the use.

The minor revisions of the Staff Approval do not alter the original CDP findings required by the Implementation Plan. Since the appeal, staff has conducted additional analysis of the project site and has determined that it is not categorized as an ESHA as defined by NBMC Section 21.30B.030, nor are the great blue heron species federally listed as threatened or endangered. This is further discussed in the *Response to Appeal* section, below, as well as the Draft Resolution (Attachment No. PC 1) and Dudek Consultant Memorandum dated August 14, 2025 (Attachment No. PC 8). Therefore, the landscape revisions do not affect the project's conformance to all applicable sections of the Local Coastal Program and do not result in a change to public access or views of the beach or bay.

RESPONSE TO APPEAL

The following are summarized reasons for the appeal of the Staff Approval by the appellant, followed by a response from staff.

CEQA Clearance – *The appellant expresses concerns for the Staff Approval utilizing Classes 1, 2 and 3 for CEQA exemptions.*

The project is exempt from the California Environmental Quality Act (CEQA) under Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. A detailed analysis of the CEQA exemption is provided below in the Environmental Review Section.

Staff clarified the appropriateness of the Class 2 CEQA exemption related to the originally approved CDP. The proposed changes requested by the City primarily affect landscaping and would not affect this CEQA exemption applied to the CDP.

Dudek Memorandum on Tree Replacement – *The appellant expresses concerns about the replacement trees not being sufficient for nesting birds.*

The City's Public Works staff sought assistance from a Dudek Consultant biologist in order to ensure the proposed changes were suitable for nesting blue herons. A Tree Evaluation Report, dated May 5, 2025, was prepared by Dudek Consultants in order to

assist the City in preparation of a revised landscape plan. The memorandum provided a biological and arboricultural analysis related to the proposed changes. The use of the Western Sycamore tree was recommended due to its ecological value, compatibility with Southern California's climate, and structural suitability for nesting birds, such as blue herons. The report also considered the availability of existing trees in the immediate area that can continue to support heron nesting activity. It indicated that mature Eucalyptus trees located at the intersection of Island Avenue and West Bay Avenue, as well as a Hoop Pine tree in the median southeast of the library, exhibited the size, height, and structural characteristics to support heron nesting activity. While the appellant expressed concerns that these trees were not sufficient, the memorandum supports that the Eucalyptus trees, as well as the Hoop Pine tree, will mitigate the removal of the existing trees for the project. It also concluded that these trees are likely to serve as suitable interim nesting habitat for the local heron population due to their relative proximity to the original nesting site and their mature stature. The report also noted 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.

Migratory Bird Treaty Act – *The appellant states that the great blue heron species is federally protected.*

The City's Public Works staff coordinated with its Dudek Consultant biologist regarding this statement. Subsequently, a memorandum regarding the protection status of nesting great blue herons was prepared by Dudek Consultants on August 14, 2025 (Attachment No. PC 8). The memorandum clarifies that while great blue herons are provided protection under the Migratory Bird Treaty Act (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 report also affirms that herons that nest on site are only protected while actively nesting and rookeries are not protected further. The future removal of the Blue Gum Eucalyptus tree and any remaining nests would be conducted outside of the nesting season (February through August) and after a biologist determines there is no active nesting. Overall, the project's revised changes continue to comply with the MBTA.

Environmentally Sensitive Habitat Area – *The appellant expresses concern that the revised changes violate protections for Environmentally Sensitive Habitat Areas (ESHAs) and the City's Local Coastal Program (LCP).*

Sections 21.30B.030 (Environmentally Sensitive Habitat Areas) of the NBMC defines an ESHA 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. Additionally, Section 21.30B.030 (A)(1) discusses exceptions and states that ESHAs do not include existing developed areas.

The appellant asserted that the Blue Gum Eucalyptus tree being removed is considered an ESHA because it contains nests of federally protected herons. As discussed above, the great blue heron is not considered a threatened or endangered species under FESA and therefore, not a federally protected species. Additionally, the August 14, 2025, Dudek memorandum evaluates whether the Blue Gum Eucalyptus tree itself qualifies as an ESHA (Attachment No. PC 8) and concludes the following:

- The memorandum affirms that the property and eucalyptus tree qualifies for an ESHA *exemption* under Section 21.30B.030(A)(1) of NBMC due to the property's existing development. 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 public facility buildings total approximately to 7,930 square feet and are surrounded by residential, commercial, and mixed-used development.
- Notwithstanding the exemption, the memorandum analyzed the tree's potential as ESHA utilizing the criteria in Section 21.30B.030(C)(1) of NBMC and concludes that the tree is not an ESHA and further 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. Lastly, the property lacks natural communities, coastal streams, rare plants or wildlife, and connectivity to other natural areas given that it is surrounded by development.

In accordance with the City's Natural Resources Element of the General Plan, undeveloped areas supporting natural habitats that may be capable of supporting sensitive biological resources within the City are also referred to as Environmental Study Areas (ESAs) by the Local Coastal Plan. Portions of ESAs within the Coastal Zone that contain sensitive or rare species are referred to as ESHAs.

The property is also not identified as one of the twenty-eight ESAs within the City under Figure NR2 (Environmentally Study Areas) of the General Plan's Natural Resources Element (Attachment No. PC 9). Additionally, the property is not identified as a site with Biological Resources under General Plan Figure NR1 (Biological Resources) of the Natural Resources Element (Attachment No. PC 10). Overall, the project complies with City's Local Coastal Program and is not affecting an ESHA.

SUMMARY

In conclusion, the project consists of minor changes to the originally approved CDP. These changes are mainly related to landscape and alteration of the parking layout. The appropriate revisions to the approved CDP landscape plan are in line with the CCC staff recommendations and ultimately provide certain tree species planted to better support nesting birds. The project is consistent with the intent of supporting nesting birds such as

great blue herons. The project complies with the City's Local Coastal Program, the Natural Resources Element of the General Plan, and does not affect an ESHA. Staff believe the findings for approval can be made to support the proposed changes and the facts in support of the required findings are presented in the draft Resolution.

ENVIRONMENTAL REVIEW

Per the approved CDP, the overall project is exempt from the California Environmental Quality Act (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.

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 identifies the demolition and reconstruction of the fire station and library, including the removal of two diseased Special Landmark trees. 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 still being met and the Project's minor changes to landscaping and parking will not affect the Class 2 exemption.

The exceptions to these categorical exemptions under Section 15300.2 are not applicable. The project's landscape changes do 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.

PUBLIC NOTICE

Notice of this hearing was published in the Daily Pilot, mailed to all owners and residential occupants 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 Municipal Code. Additionally, the item appeared on the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:


Laura Rodriguez, Assistant Planner
DL/lr

Submitted by:


Jaime Murillo, AICP
Acting Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution
- PC 2 Approved Resolution No. 2024-72 from September 24, 2024, City Council Hearing
- PC 3 Community Development Director Action Letter from July 3, 2025
- PC 4 Originally Approved CDP Landscape Plan
- PC 5 Revised CDP Landscape Plan
- PC 6 Appellant's Application of Appeal
- PC 7 Dudek Memorandum from May 5, 2025
- PC 8 Dudek Memorandum from August 14, 2025
- PC 9 Figure NR2 Environmentally Study Areas
- PC 10 Figure NR1 Biological Resources