

# **Attachment G**

Appeal Application

ORIGINAL



# Appeal Application

City Clerk's Office  
100 Civic Center Drive / P.O. Box 1768  
Newport Beach, CA 92658-8915  
949-644-3005

Clerk's Date & Time Stamp

JUL 17 '25 PM 4:23  
REC'D CITY CLERKS OFFIC

Appeals are time sensitive and must be received by the City Clerk within the specified time period from a decision or final action by a decision-maker. It is advisable to consult with the Department managing the issue if there is question with regards to appealing an action. This is an appeal of the:

- ☐ (CDD222) Community Development Director Action to the Planning Commission - \$2116
- ☐ (CDD222) Zoning Administrator Action to the Planning Commission - \$2116
- ☐ (CDD222) Coastal Development Application CDP Appeal from Zoning Admin to the Planning Commission (only if appeal is solely based on the CDP portion of the application) - No Fee
- ☒ (CDD222) Planning Commission Action to the City Council - \$2116
- ☐ (CDD222) Community Development Director Action to the Harbor Commission - \$623
- ☐ (CDD222) Harbor Commission Action to the City Council (CDD - Planning) - \$498
- ☐ (CDD222) Hearing Officer Action to the City Council - \$2116
- ☐ (CDD223) Building Official/Fire Marshal Action to the Building/Fire Board of Appeals - \$1827
- ☐ (CDD224) Chief of Police Action on an Operator License to the City Manager - \$1033
- ☐ (RSS073) City Manager Action on a Special Events Permit to the City Council - \$1953
- ☐ (HBR001) Harbormaster Action to the Harbor Commission - \$622
- ☐ (HBR001) Harbor Commission Action to the City Council (Harbor Department) - \$498
- ☐ (PBW018) Public Works Director Action to Harbor Commission - \$1446
- ☐ (PBW018) Harbor Commission Action to City Council (Public Works Department) - \$691
- ☐ Other - Specify decision-maker, appellate body, Municipal Code authority and fee: \_\_\_\_\_

## Appellant Information:

Name(s): Save Our Sports Park

Address: 139 S. Hudson Ave., Suite 200

City/State/Zip: Pasadena, CA 91101

Phone: (626) 314-3821 Email: info@mitschtsailaw.com, omarc@mitschtsailaw.com, mitch@mitschtsailaw.com

## Appealing Application Regarding:

Name of Applicant(s): Ford Road Ventures, LLC Date of Final Decision: July 3, 2025

Project No.: PA2025-0049 Activity No.: \_\_\_\_\_

Application Site Address: 1650 & 4302 Ford Road, Newport Beach, CA 92660 (APNs 458-361-10 & 458-361-02)

Description of application: Major site development review and vesting tentative tract map for 27 townhome units on a vacant lot.

Reason(s) for Appeal (attach a separate sheet if necessary): Please see Attachment A

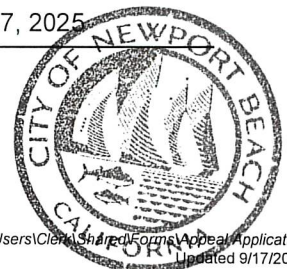
Signature of Appellant: [Signature] By Fax Date: July 17, 2025

## FOR OFFICE USE ONLY:

Date Appeal filed and Administrative Fee received: 7-17, 2025

City Clerk

cc: Department Director, Deputy Director, Staff, File



F:\Users\Clerk\Shared\Forms\Appeal Application  
Updated 9/17/2024



P: (626) 314-3821  
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**Mitchell M. Tsai**  
Law Firm

139 S. Hudson Ave., Suite 200  
Pasadena, California 91101

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**VIA PROCESS SERVER**

July 17, 2025

City of Newport Beach  
City Clerk's Office  
100 Civic Center Drive / P.O. Box  
Newport Beach, CA 92658-8915

**RE: City of Newport Beach – Appeal of Planning Commission –  
Ford Road Townhouses Project (Planning Case No. PA2025-0049)  
(APNs 458-361-10; 458-361-02)**

Dear City Clerk,

On behalf of Save Our Sports Park (“**S.O.S. Park**”), our Office is submitting this Appeal of the City of Newport Beach (“**City**”) Planning Commission’s (“**Commission**”) action on July 3, 2025 authorizing the proposed development project filed as PA2025-0049 that is proposed to be located at 1650 and 4302 Ford Road in the City (APNs 458-361-02) and identified as the “Ford Road Townhouse” Project (“**Project**”).

S.O.S. Park is an organization of Newport Beach residents committed to the protection of the City’s natural environment and resources and promotion of responsible and thoughtful development and planning in the City. Individual members of S.O.S. Park live, work, and recreate in the City and surrounding communities and may be directly affected by the Project.

The City describes the proposed Project as “a for-sale residential townhome community with 27 units on an undeveloped and unaddressed property near the southeast corner of the MacArthur Boulevard and Bonita Canyon Drive intersection, northeast of the parking lot for the Bonita Canyon Sports Park and west of the AT&T facility. The proposed development includes a mix of two-, three, and four-bedroom units ranging from 1,916 to 2,989 square feet, each with an attached two-car garage.” (See July 3, 2025 Newport Beach Planning Commission Agenda, Public Hearing Item No. 3)

Pursuant to Chapters 21.64 and 24 of the City of Newport Beach Municipal Code, our office asserts and raises the following grounds to support this appeal:

**I. The Project As Proposed Fails to Comply with the City’s Multi-Unit Objective Design Standards**

The project, as currently proposed, fails to comply with at least four, but possibly more, of the City’s adopted Multi-Unit Objective Design Standards (“MODS”), as codified in Section 20.48.185 of the Newport Beach Municipal Code (NBMC). These MODS are intended to ensure that new multi-unit residential development is compatible with surrounding neighborhoods and their stated purpose is to “ensure the highest possible design quality and to provide a baseline standard for all new multi-unit development in Newport Beach.” NBMC Section 20.48.185. In its July 3, 2025 Planning Commission Staff Report, the Planning Commission acknowledged that the Project fails to satisfy at least four of the MODS, but nonetheless characterized these deviations as “minor” and explained that “[t]hough the project requests minor deviation of four objective design standards, the project still more than complies with the intent the objective design standards therefore the deviations are appropriate.” (*See* July 3, 2025 Planning Commission Staff Report, p. 19). While the NBMC allows for deviations from the MODS in certain limited circumstances, as further explained below, here, the Commission has failed to perform the necessary findings supported by sufficient analysis and evidence to substantiate the permissibility of the Project’s nonconsistency with the MODS. The Commission’s justification is likely not consistent with the intent of the MODS or even with the State’s housing laws, which generally require objective standards to be applied uniformly.

**II. Project’s Site Development Review (SDR) Findings are Inadequate to Justify Inconsistency with MODS**

The NBMC provides that deviations from MODS may only be approved if the reviewing authority performs a discretionary “Site Development Review” regarding the project’s inconsistencies. Specifically, under NBMC Section 20.48.185.A., a Project that is inconsistent with the MODS must undergo a Site Development Review pursuant to NBMC Section 20.52.080.F, prior to project approval. The reviewing authority’s findings must be supported by evidence, which the applicant bears the burden of establishing.



Here, while the Planning Commission purportedly performed the requisite Site Development Review, it failed to make all of the necessary findings and to substantiate those findings with sufficient evidence and analysis to permit the public to verify the veracity of its conclusions. For example, the findings are likely flawed in the following respects:

1. Neighborhood Compatibility: The project's scale, massing, and architectural character are incompatible and incongruous with the surrounding community and neighborhood, which currently consists primarily of two-story single-family residences or similar structures.
2. Architectural Design and Character: The project does not demonstrate superior architectural quality or design, fails to provide sufficient improvements, and detracts the neighborhood's current character, thereby failing to merit or justify *multiple* deviations from the MODS.

**III. The Project Requires a Lot Line Adjustment Involving Privately Owned Property and Should be Subject to a 14-Day Appeal Period**

The project as currently proposed would require reconfiguring the lot line between the proposed Project site and the adjacent AT&T Facility Property, which would apparently increase the project site by approximately 0.1 acres from 1.06 acres to 1.16 acres. However, a key issue involving the requested reconfiguration of the lot lines is that it would entail an adjustment of property that the Project applicant does not yet have ownership of or hold title to. The July 3, 3035 Staff Report suggests that the Project applicant's acquisition of the property necessary for reconfiguration of the lot line is still contingent upon certain future project entitlements.

Additionally, S.O.S. Parks is concerned that both the Public Notice for the July 3, 2025 Planning Commission public hearing and Resolution No. PC2025-012 do not clearly state the relevant appeal period for the lot line adjustment, which is typically ten (10) days, pursuant to NBMC Section 19.76.020.L. Instead, the Resolution indicates a fourteen (14) day appeal period. The Commission's lack of proper notice may invalidate the appeal deadline and constitutes a due process concern. Thus, S.O.S. Parks submits that the City should permit any appeals of the lot line adjustment based on a fourteen (14) day appeal period, to protect the public's interest and right to comment on such matters.

**IV. The Project Requires a Vesting Tentative Tract Map That Is Unsupported and Based on Inadequate Findings**

The Project requires a Vesting Tentative Tract Map (VTTM) that the Commission describes to “adjust the easterly property line between the project site and the AT&T Facility property, to create individual parcels for conveyance purposes, and to allow for an airspace subdivision of the units for individual sale (i.e., for condominium purposes).” (*See* July 3, 2025 Planning Commission Staff Report, p. 12).

As the Commission has acknowledged, the requested VTTM may not be approved unless the Commission establishes certain findings, pursuant to NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps). However, S.O.S. Parks is concerned that the Commission’s findings regarding the VTTM are predicated and based upon environmental findings and conclusions that are speculative and uncertain at best because the Commission has also determined that further environmental review for the Project is unwarranted. For example, in the context of the required VTTM findings, the Commission’s Staff Report makes several conclusory statements regarding several environmental phenomena at the Project site, including water supply, riparian habitats, wetlands, sensitive natural habitats, etc.. The Staff Report concludes that the Project and related VTTM will not negatively impact these environmental phenomena but does not provide sufficient supporting evidence or analysis to ascertain the credibility of such conclusions. Indeed, the VTTM findings appear to significantly rely on outdated environmental review, as explained further below, that would thus bring into question the VTTM findings themselves. If the City approved the VTTM based on reliance on outdated environmental review or defective findings, the VTTM approval may also be defective and legally vulnerable.

**V. New Information Regarding Environmental Factors Require Further Environmental Review for the Project under the California Environmental Quality Act (CEQA)**

A key issue with the Project’s environmental review is that it improperly relies on outdated environmental review performed for the City’s Housing Element rather than analyzing the proposed Project specifically, especially in light of relevant information regarding the Project site’s environmental phenomena. Specifically, the City is relying on the Housing Implementation Program EIR (PA2022-0245) (SCH No. 2023060699), which was certified over a year ago, in February 2024. Further, the City

has apparently concluded that the Project is exempted from further environmental review under CEQA Guidelines, Sections 21083.3 and 15183.

First, S.O.S. Park submits that reliance on an earlier environmental report for this Project would not comply with the requirements of CEQA, which generally favors informed decisionmaking and weighing of environmental factors prior to approving development. Instead, S.O.S. Park urges the City to require the preparation of an initial study or Environmental Impact Report (EIR) for the Project to fully account for any potential environmental impacts and to properly address the public's concerns regarding the Project's consequences.

Second, S.O.S. Park believes several key facts and new information warrant additional environmental review under CEQA. For example, several community members and neighbors have recently observed and documented birds nesting in mature trees on the Project site, which are proposed for removal. These birds may include birds of prey and other nesting birds that are protected under both federal and state law, including, but not limited to, the Migratory Bird Treaty Act and California Fish & Game Code Section 3503, which generally prohibit the unlawful taking of migratory birds. However, the Planning Commission's analysis of environmental review for the Project fails to consider or analyze the Project's impacts on migratory and nesting birds.

Further, the Project would likely directly impact an endangered species that is present on the Project site and therefore requires additional environmental review.

Specifically, the Southern Tarplant has been observed growing on the Project site, which is listed as a "rare and endangered plant in California and elsewhere" and "seriously endangered in California" by the California Native Plant Society and is therefore also likely subject to protection under the Endangered Species Act and California Department of Fish and Game Code. Moreover, the Project's threat to this endangered species would likely also contravene several of the City's General Plan goals, including the Newport Beach General Plan Natural Resources Element Goal NR 10, which provides for "protection of sensitive and rare terrestrial and marine resources from urban development" as well as General Plan Policy NR 10.4, which provides that "new Development Siting and Design require that the siting and design of new development, including landscaping and public access, protect sensitive or rare resources against any significant disruption of habitat values."



The Project's potential impacts and threats to sensitive species at the Project site constitute "new information" of "substantial importance" under CEQA Guidelines §§15162 and 15164 that was not evaluated in any prior environmental review and therefore requires preparation of a subsequent or supplemental EIR, at minimum. S.O.S. Park urges the City to direct Staff to prepare additional environmental review for the Project in accordance with CEQA.

## **VI. Conclusion**

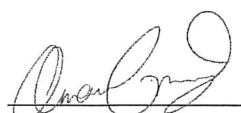
Based on the grounds presented herein, we respectfully request that the City Council conduct a full de novo appeal hearing for the Project pursuant to NBMC Section 20.64.030.C.4. (Review of an appeal from a decision of the Hearing Officer, Zoning Administrator, Commission, or the Director, including Director interpretations, shall be de novo."). At the appeal hearing, the City should consider and evaluate the following:

1. Project's Compliance with the Multi-Unit Objective Design Standards
2. Project's Site Development Review (SDR) and related Findings
3. Requested Lot Line Adjustment and Status of Property Ownership
4. Vesting Tentative Tract Map (VTM) and related Findings
5. The adequacy and need for additional environmental review under CEQA
6. Any other issue(s) concerning the Project that the City deems appropriate

The Project, as currently proposed, presents serious procedural, environmental, and planning concerns that warrant careful reevaluation and consideration in light of community concerns, public input, and potential conflict with applicable state and local laws.

Should the City have any questions or concerns regarding this appeal letter, please do not hesitate to contact our office.

Sincerely,



Omar Corona

Attorneys for Save Our Sports Park

By Fax



NATIONWIDE LEGAL, LLC.  
CLIENT ADVANCE ACCOUNT  
1609 JAMES M. WOOD BLVD, 2ND FLOOR  
LOS ANGELES, CA 90015  
(213) 249-9999

CONFIRM ENCASHMENT  
OF OVER \$200.00 W/  
THE MAKER @ (213) 249-9999

BMO BANK N.A.  
320 South Carol Street  
CHICAGO, IL 60606  
02-2566  
710

5126990

DATE 7-17-2025

PAY TO THE  
ORDER OF

City of Newport Beach

\$ 616.<sup>00</sup>

Six hundred &amp; fifteen dollars

DOLLARS

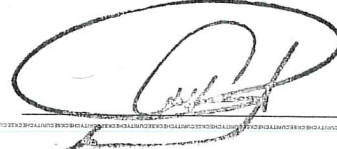
DR# OC956 CLIENT

Mitchell M. Tsai

NOT TO EXCEED \$1,500.00 VOID AFTER 90 DAYS

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LA670216



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5126989

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\$ 1,500.<sup>00</sup>

one thousand five hundred dollars

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City of Newport Beach  
Revenue  
100 Civic Center Dr.  
Newport Beach, CA 92660  
949-644-3141  
Welcome

07/17/2025 04:33PM Jordan W.  
022224-0002 000112612  
Payment Effective Date 07/17/2025

**MISCELLANEOUS**

PLANNING APPEALS  
(CDD222)

2026 Item: CDD222  
1 @ \$2116.00

PLANNING APPEALS  
(CDD222) \$2,116.00

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\$2,116.00

**Subtotal** \$2,116.00  
**Total** \$2,116.00

CHECK \$2,116.00  
Check Number BATCH

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**Change due** \$0.00

Paid by: NATIONWIDE LEGAL, LLC.

Comments: CH#5126989 & 5126990

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