



CITY OF

NEWPORT BEACH

City Council Staff Report

October 28, 2025
Agenda Item No. 18

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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

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TITLE: Resolution No. 2025-70: Appeal of Planning Commission's Approval of Minor Changes to Coastal Development Permit No. PA2024-0140 located at 100 East Balboa Boulevard (PA2025-0130)

ABSTRACT:

For the City Council's consideration is an appeal of the Planning Commission's September 18, 2025, decision to uphold the Community Development Director's approval of minor changes to Coastal Development Permit (CDP) No. PA2024-0140. The CDP was previously approved by the 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 landscape plans with replacement 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.

RECOMMENDATIONS:

- a) Conduct a de novo public hearing;
- b) Find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, because this project has no potential to have a significant effect on the environment; and
- c) Adopt Resolution No. 2025-70, *A Resolution of the City Council of the City of Newport Beach, California, Denying an Appeal and Upholding the Planning Commission's Approval of Minor Changes to Coastal Development Permit No. PA2024-0140 for the Property Located at 100 East Balboa Boulevard (PA2025-0130).*

DISCUSSION:

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.



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

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. Since the property is in the Coastal Zone, a CDP was required for the redevelopment of the fire station and library.

Project Background

On March 5, 2024, the Parks, Beaches, and Recreation Commission (PB&R) approved the removal of two Special City Landmark trees located on the subject property (Figure 2 on Page 3), due to disease and the decaying advancement rate.

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.

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. A detailed project description is included in September 24, 2024, City Council Staff Report (Attachment B).



Figure 2: Oblique Aerial Image of Property

On October 24, 2024, the CDP was appealed to the California Coastal Commission (CCC) by the Appellant, due to concerns about the removal of a Blue Gum Eucalyptus tree and the potential displacement of nesting great blue herons. The CDP is currently under review by the CCC staff pending the outcome of this hearing.

CCC Staff Feedback and Additional Analysis

After the appeal of the CDP was filed to the CCC, CCC staff conducted an initial review of the project and collaborated with City staff to resolve the issue of potential displacement of nesting great blue herons. CCC staff recommended that the City consider using Eucalyptus, Cypress, Western Sycamores, and Big Cone Spruce as alternative tree species to mitigate the removal of the existing trees on the property. Additionally, a Tree Evaluation Report, dated May 5, 2025 (Attachment C), was prepared by Dudek Consultants, which included a biologist and urban forester, to assist the City in preparation of a revised landscape plan.

Project Description

Based on the previously mentioned collaboration and analysis, the City prepared a revised landscape plan to address the potential displacement of nesting great blue herons. On July 3, 2025, the Community Development Director approved Staff Approval No. PA2025-0130 to incorporate minor changes to the landscape plans of the approved CDP (Attachment D).

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 alters the parking layout and results in the loss of one surplus parking space (Figure 4, below).

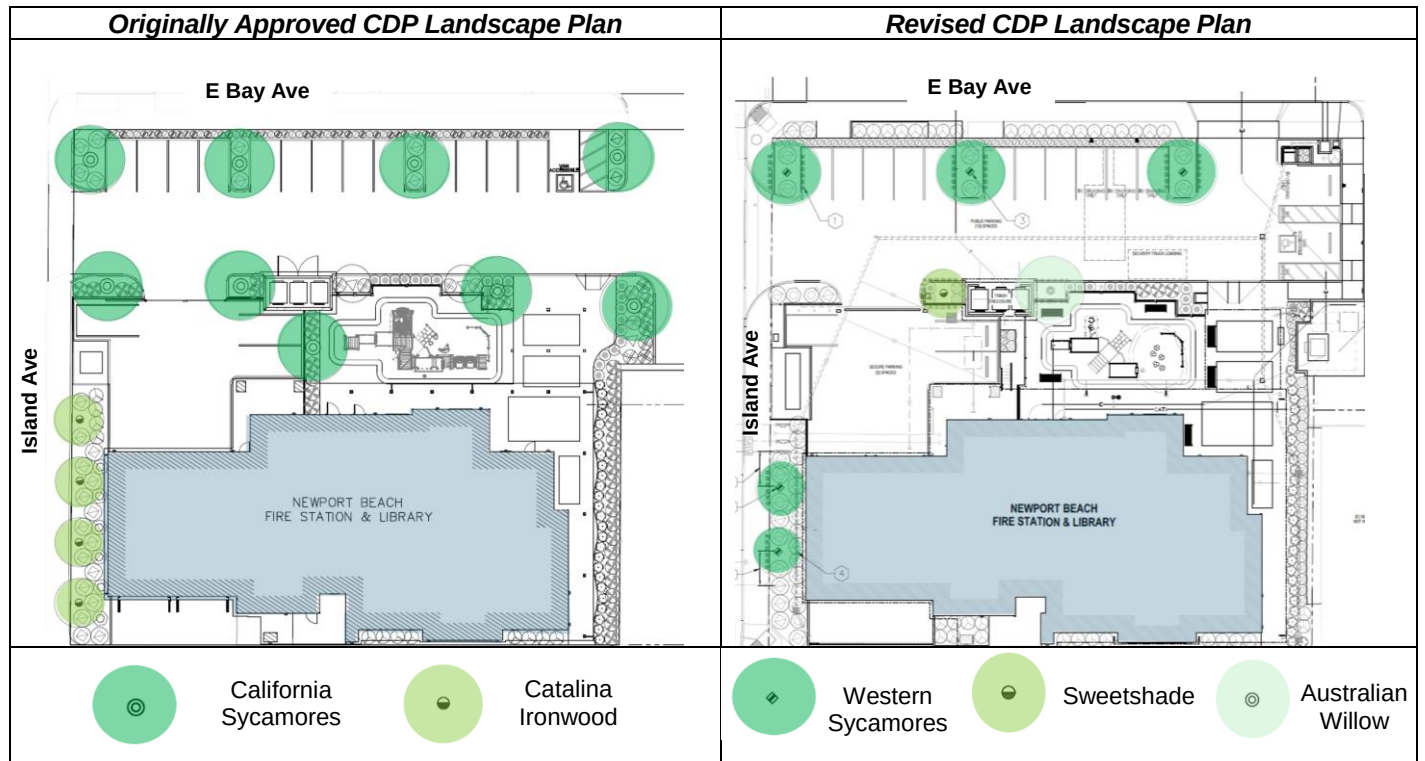


Figure 4: Comparison of the Original and Revised Landscape Plan

All required findings of Newport Beach Municipal Code (NBMC) Section 21.54.070 (Changes to an Approved Coastal Development Permit) are addressed in the draft resolution (Attachment A), under “Exhibit A”, and was previously discussed in detail in the September 18, 2025, Planning Commission Staff Report (Attachment E). The originally approved landscape plan is included as Attachment F, and the revised landscape plan is included as Attachment G.

Additionally, the CDP’s landscape plan is required to comply with NBMC Section 21.30.075 (Landscaping). 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 does 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.

Appeal to the Planning Commission

On July 18, 2025, the Appellant filed an appeal of the Staff Approval to the Planning Commission. The appeal cited the following factors of concern (as summarized):

- Objection of the CEQA exemptions utilized;
- The replacement trees are insufficient for nesting birds; and

- The project does not protect environmentally sensitive habitat areas (ESHA).

The complete appeal application to the Planning Commission is provided as Attachment H.

On September 18, 2025, the Planning Commission held a public hearing to consider the appeal of the Staff Approval. During the hearing, the Appellant stated that the Blue Gum Eucalyptus tree and the property are considered an Environmentally Sensitive Habitat Area (ESHA) because it contains nests of great blue herons. Additionally, several members of the public spoke in opposition about the removal of the tree, objected to the utilized CEQA exemption, and compliance with the Local Coastal Program (LCP). In response, staff cited memorandums provided by the City's consultant, Dudek, which affirmed that the property and the Blue Gum Eucalyptus tree are not considered ESHA.

After considering all public comments and findings, both written and oral, the Planning Commission unanimously adopted Resolution No. PC2025-021 (Attachment I) denying the appeal and upholding the Community Development Director's approval of minor changes to CDP No. PA2024-0140. As previously noted, the Planning Commission staff report is referenced as Attachment E, and the meeting minutes are included as Attachment J.

Appeal to City Council

On October 2, 2025, the Appellant filed an appeal of the Planning Commission's decision to the City Council. The complete appeal application to the City Council is included as Attachment K.

Response to Appeal

While the appeal focuses predominately on the removal of the Blue Gum Eucalyptus tree, the subject of the appeal should be whether the revised landscape plan constitutes a minor change to Coastal Development Permit (CDP) No. PA2024-0140. The decision to remove the tree was previously approved by Coastal Development Permit (CDP) No. PA2024-0140 and is pending review at the California Coastal Commission on a separate appeal. Notwithstanding, the following are summarized reasons for the appeal of the Staff Approval by the appellant, followed by a response from staff.

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 and Library Park is considered an ESHA because it contains nests of great blue herons. The August 14, 2025, Dudek memorandum evaluated whether the Blue Gum Eucalyptus tree and the Property qualify as an ESHA (Attachment L) and concludes the following:

- The memorandum affirms that the property and eucalyptus tree qualify 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 28 ESAs within the City under Figure NR2 (Environmentally Study Areas) of the General Plan's Natural Resources Element (Attachment M). 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 N). Overall, the project complies with City's Local Coastal Program and is not affecting an ESHA.

Environmental Harm to Great Blue Herons –*The appellant claims that the removal of the Blue Gum Eucalyptus tree will cause environmental harm to great blue herons.*

As previously noted, the Dudek memorandum supports that the property and the tree would not be creating an environmental impact because they are not considered to be an ESHA. The memorandum also analyzes the protection status of nesting great blue herons. It states that great blue heron is protected under the Migratory Bird Treaty Act (MBTA) while nesting, but 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 according to the California Department of Fish and Wildlife Natural Diversity Database. The memorandum also

affirms that herons that nest on site are only protected while actively nesting and rookeries are not protected further.

The Tree Evaluation Report, dated May 5, 2025, prepared by Dudek Consultants (Attachment C), also provided a biological and arboricultural analysis related to the revised landscape plan. The Western Sycamore tree species 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 during the reconstruction and replanting phase of the project. 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. The report concludes that the eucalyptus and hoop pine trees will mitigate the removal of the existing trees for the project and help minimize disruption to the nesting cycle during construction, while the newly planted trees mature and develop sufficient canopy coverage to support long-term habitat needs. Additionally, the report 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.

Furthermore, the project will not affect compliance with the Migratory Bird Treaty Act (MBTA), which is intended to ensure the sustainability of populations of all migratory bird species. As required by Condition of Approval No. 3 and 4 of the CDP, 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 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 would not be causing environmental harm to the Great Blue Heron.

CEQA Clearance – *The appellant expresses concern for the Staff Approval utilizing the Class 2 CEQA exemption.*

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.

The Environmental Review section on Page 8 of this staff report provides a detailed analysis of the CEQA exemption, including staff's clarification 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.

Compliance with the Recreation and Natural Resource Element – *The appellant claims that the removal of the tree is not aligned with the intent of the recent draft Recreation and Natural Resources Element, dated June 27, 2025. Specifically, the use*

of reasonable efforts to evaluate tree canopy in parks and the public right-of-way and conversation, protection, development, and use of natural resources.

While the drafted Recreation and Natural Resources Element seek to evaluate tree canopy cover in parks and public right-of-ways, consider shade, and prioritize active transportation corridors, it does not prohibit tree removal. As previously discussed, the Blue Gum Eucalyptus tree is diseased and decaying. Its future removal would not affect natural resources because it is not considered an ESHA, nor is it identified as one of the 28 ESAs within the City under the General Plan's Natural Resources Element. The property is also not identified as a site with biological resources under the Natural Resources Element.

Claim of a Historic Underground Spring – *The appellant claims the property carries an underground spring.*

The appellant asserted that the Blue Gum Eucalyptus tree is absorbing the water and controlling the size of an underground spring below the property. The appellant's claim of an underground spring is not supported with supplemental evidence. Furthermore, upon review of the City's municipal sources and the City's Senior Engineer Geologist, there is no evidence to suggest that the property historically carries an underground spring. The property is located on the Balboa Peninsula, a relatively flat surface that generally lacks the necessary elevation to facilitate the emergence of underground spring water. The property's soils report also indicated that groundwater was encountered at a depth of 6 feet below existing ground surface and that the PH level of the soils is corrosive, indicating seawater exposure.

FISCAL IMPACT:

There is no fiscal impact related to this item.

ENVIRONMENTAL REVIEW:

Staff recommend the City Council find this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

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.

NOTICING:

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. Furthermore, 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).

ATTACHMENTS:

- Attachment A – Resolution No. 2025-70
- Attachment B – City Council Staff Report from September 24, 2024 (No Attachments)
- Attachment C – Dudek Memorandum from May 5, 2025
- Attachment D – Community Development Director Action Letter from July 3, 2025 (No Attachments)
- Attachment E – Planning Commission Staff Report from September 18, 2025 (No Attachments)
- Attachment F – Original Approved CDP Landscape Plan
- Attachment G – Revised CDP Landscape Plan
- Attachment H – Appellant's Appeal Application to Planning Commission
- Attachment I – Resolution No. PC2025-021
- Attachment J – Planning Commission Meeting Minutes from September 18, 2025
- Attachment K – Appellant's Appeal Application to City Council
- Attachment L – Dudek Memorandum from August 14, 2025
- Attachment M – Figure NR2 Environmentally Study Areas
- Attachment N – Figure NR1 Biological Resources