



CITY OF NEWPORT BEACH PLANNING COMMISSION STAFF REPORT

August 6, 2026
Agenda Item No. 2

SUBJECT: Patton Residence Encroachment (PA2026-0123)
▪ Encroachment Permit No. N2026-0241

SITE LOCATION: 700 ½ Jasmine Avenue

APPLICANT/OWNER: Elena Patton

ENGINEER: Josh McDonald, Principal Civil Engineer
949-644-3326, jmcdonald@newportbeachca.gov

PROJECT SUMMARY

A request to waive City Council Policy L-6 (Encroachments in Public Rights-of-Way) and to approve an Encroachment Permit to allow the relocation and retention of certain private improvements within the Fourth Avenue public right-of-way. The proposed configuration maintains a minimum 4-foot clearance measured from the back of the curb along the property frontage. Existing improvements include fences, walls, lighting, and landscaping of various heights. Existing improvements within the required 4-foot clearance area will be removed or relocated. The remaining improvements outside the 4-foot clearance area will be retained in place.

RECOMMENDATION

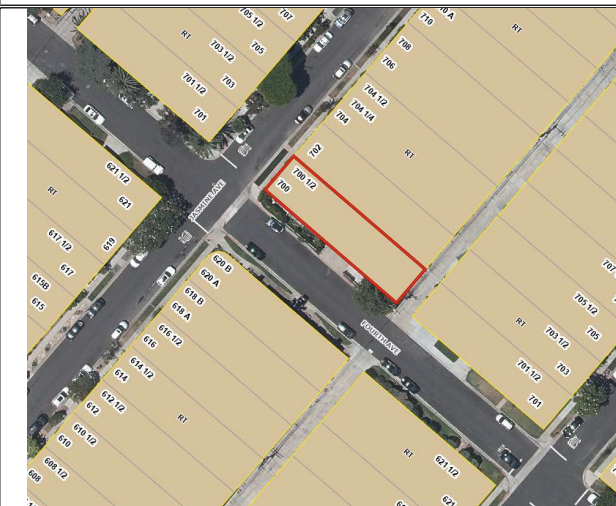
- 1) Find the project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3 - New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment, and the exceptions to this categorical exemption under Section 15300.2 are not applicable; and
- 2) Adopt Resolution No. PC2026-022, waiving City Council Policy L-6 (Encroachments in Public Rights-of-Way) and approving Encroachment Permit No. N2026-0241 (Attachment No. PC 1).

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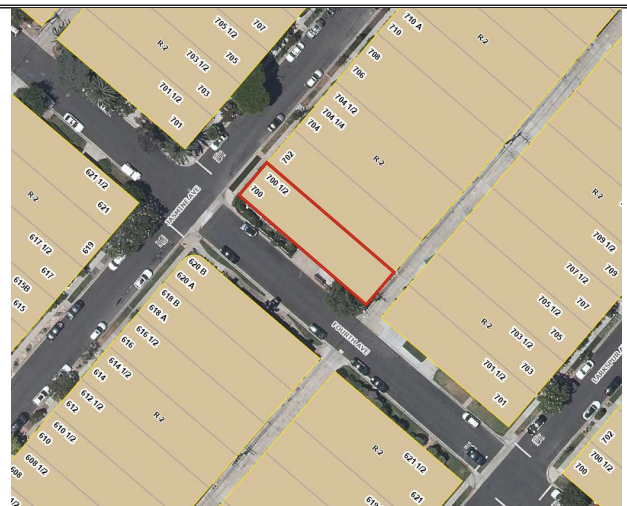
VICINITY MAP



GENERAL PLAN



ZONING



LOCATION		GENERAL PLAN	ZONING	CURRENT USE
ON-SITE		Two Unit Residential (RT)	Two-Unit Residential (R-2)	Residential
NORTH		RT	R-2	Residential
SOUTH		RT	R-2	Residential
EAST		RT	R-2	Residential
WEST		RT	R-2	Residential

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INTRODUCTION

Relevant City Council Policies

City Council Policy L-6 (Encroachments in Public Rights-of-Way) provides that public rights-of-way are to be reserved for public use or open space and that the rights of the public, in both the present and future, are not to be diminished by retaining private improvements within the public right-of-way (Attachment No. PC 2). Council Policy L-6 identifies both allowable and prohibited encroachments and the permits and/or agreements required. It prohibits private encroachments of fences, walls, patios, raised planters, etc. that encroach more than 1 foot into the public right-of-way and/or exceed 36 inches in height; however, the Planning Commission may grant a waiver of these standards.

Existing Conditions and Project Description

The subject property is located on the northeastern corner of the Jasmine Avenue and Fourth Avenue intersection. It is developed with two residential condominium units with separate ownership. This application involves only the rear condominium unit addressed as 700 ½ Jasmine Avenue (Project Site). In 2021, a Code Enforcement case was opened to review the Project Site's improvements in the public right-of-way. Although several encroachments were present prior to 2011, they were previously limited to a low brick wall and stairs along Fourth Avenue. Since 2015, the encroachments were expanded without authorization to include various taller walls, fences, planters, and landscaping. Adjacent residences do not have similar private encroachments into the public right-of-way. Figure 1 shows these existing non-compliant encroachments.

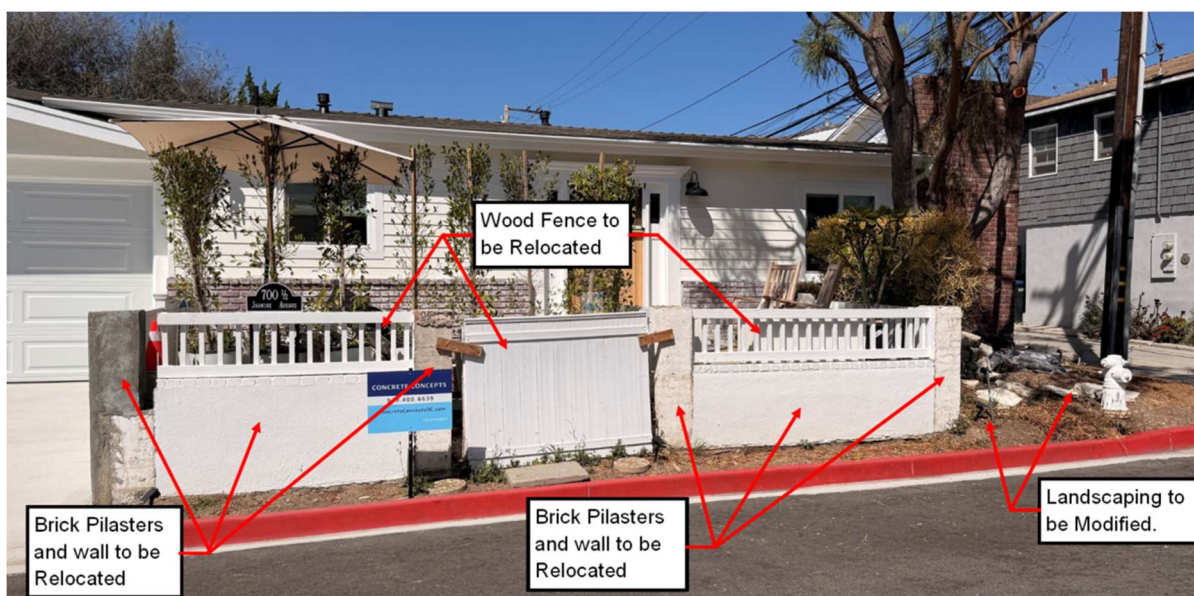


Figure 1, Existing, non-compliant encroachments into Fourth Avenue public right-of-way at the rear unit (700 ½ Jasmine)

As shown in Figure 1, there are several existing improvements encroaching into the Fourth Avenue public right-of-way, including:

- A concrete wall with an attached 1-foot-6-inch-tall wooden fence that encroaches approximately 8 feet;
- A 4-foot-tall wooden fence that encroaches approximately 8 feet;
- Four brick pilasters that encroach approximately 8 feet; and
- Landscaping of various heights that encroach up to approximately 10 feet.

To address the Code Enforcement case, the Owner is requesting a waiver of Council Policy L-6 to remove existing non-compliant private improvements and to relocate and retain private improvements within the Fourth Avenue public right-of-way, as identified in the next section of this report. Site photos, a letter from the Owner received June 18, 2026, and the proposed site plan are provided for reference as Attachment Nos. PC 3, PC 4, and PC 5, respectively.

DISCUSSION

Waiver of Council Policy L-6

The Public Works Department has reviewed the L-6 Waiver request and determined that a minimum 4-foot-wide setback from the curb is necessary to allow the future construction of a sidewalk along Fourth Avenue; therefore, the following approval is recommended, subject to conditions of approval as identified in Attachment No. PC 1:

1. The removal of all existing improvements within the Fourth Avenue public right-of-way, as necessary, to maintain a minimum 4-foot clearance measured from the back of the curb. This area shall remain free and clear of private improvements except for turf or other low ground cover not exceeding 24 inches in height to preserve area for potential future construction of a 4-foot-wide public sidewalk along Fourth Avenue; and
2. The retention and relocation of all private improvements within the Fourth Avenue public right-of-way between the minimum 4-foot clearance and the subject property line, including portions of the low wall, brick pilasters, low-voltage lighting, wood fencing, and a wood gate, consistent with the approved plans. Replacement landscaping within the public right-of-way shall be limited to turf or other low ground cover not to exceed 24 inches in height.

As the existing improvements would be modified to maintain the 4-foot clearance, the existing improvements are acceptable. They would not adversely affect public use of the right-of-way and would not interfere with traffic visibility along Fourth Avenue. The fences,

walls, pilasters, gate, and landscaping, as modified by this approval, would become compatible with the residential character of the neighborhood.

Environmental Review

The project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 (Class 3, New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3. This exemption applies to the construction, replacement, or relocation of limited-scale structures, including accessory structures, and related site improvements that would not result in a significant effect on the environment. The proposal qualifies for this exemption because it involves the removal and relocation of accessory structures, including fences, walls, and pilasters, and associated landscaping, with no anticipated significant environmental effects.

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.

Public Notice

Notice of this hearing was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicants 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:



Josh McDonald, P.E.
Principal Civil Engineer

Submitted by:



Liz Westmoreland, AICP
Deputy Community Development Director

ATTACHMENTS

- PC 1 Draft Resolution with Findings and Conditions
- PC 2 City Council Policy L-6 (Encroachments in Public Right-of-Way)
- PC 3 Site Photos
- PC 4 Owner Letter received June 18, 2026
- PC 5 Site Plan

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