

**RESOLUTION NO. PC2018-019****A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING PLANNED DEVELOPMENT PERMIT NO. PL2018-001 AND TENTATIVE TRACT MAP NO. NT2017-005 FOR A 92-UNIT CONDOMINIUM DEVELOPMENT LOCATED AT 1244 IRVINE AVENUE (PA2017-248)**

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Mariner Square 2017, LLC, with respect to property located at 1244 Irvine Avenue, and legally described on Exhibit "A" attached hereto, requesting approval of a Planned Development Permit and a Tentative Tract Map.
2. The applicant proposes the demolition of an existing 114-unit apartment complex and the construction of a 92-unit residential condominium development, including private streets and common open space on a 5.76-acre site. The proposed development complies with development standards including height, site coverage, and parking requirements. One adjustment is requested at the front setback along Irvine Avenue to allow for second and third stories of ten units to project two feet into the required 20-foot setback.
3. The subject property is designated Multiple-Unit Residential (RM) by the General Plan Land Use Element and is located within the Multi-Unit Residential (RM-6,000) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 21, 2018, in the Council Chambers at 100 Civic Center Drive, Newport Beach, California. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

**SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.**

1. This project is categorically 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.
2. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced. The proposed project consists of the demolition of a 114-unit apartment complex and the construction of 92 multi-family condominium units.

3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project 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.

### SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 20.52.060 (Planned Development Permits), the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *The proposed development would:*
  - a. *Include only uses allowed within the base zoning district;*
  - b. *Be substantially consistent with the purpose, intent, goals, policies, actions, and land use designations of the General Plan, and any applicable specific plan;*
  - c. *Be substantially consistent with the purpose and intent of the base zoning district;*
  - d. *Include sustainable improvement standards and protection of environmental resources; and*
  - e. *Be compatible with other development within the zoning district and general neighborhood of the proposed project.*

#### Facts in Support of Finding:

1. The subject property is currently zoned Multi-Unit Residential (RM-6,000) which requires a minimum of 92 and allows a maximum of 115 attached or detached dwelling units on this 5.76-acre site. The proposed 92-unit multi-family residential development complies with the RM-6,000 Zoning District development standards, except for the requested setback adjustment.
2. The subject property has a General Plan Land Use Element designation of Multiple-Unit Residential ("RM"). This category is intended to provide primarily for multi-family residential development containing attached or detached dwelling units. The General Plan Land Use Element Figure LU10 allows a maximum density of 20 units per acre. The proposed project does not exceed the maximum allowable density of 115 units (5.76 x 20).
3. The proposed project is consistent with General Plan Policy LU 5.1.9, which requires multi-family dwellings to be designed to convey a high quality architectural character in regards to building elevations, ground floor treatment, roof design, parking, open space, and amenities. Parking is provided as attached garages integrated within the residential structures, with uncovered guest spaces throughout the site. The design is described as contemporary California coastal architecture with comprehensive and cohesive designs. The colors of the materials will include white, beige, blue, green, and gray. Materials will include a combination of board and batten siding, horizontal lap siding, shingle siding, stucco, and metal elements. Any stucco on the building will have a smooth finish. The

project is designed with buildings offset from vehicle entrances to create visual interest from the street and prevent long, unarticulated driveway appearances. Canopies over front doors fronting on Irvine Avenue will provide for a pedestrian-oriented development that integrate the project into the surrounding area, and two-foot projections into the 20-foot front setback on Irvine Avenue will create building articulation and enhance visual interest.

4. The property is not located in a specific plan area.
5. The RM Zoning District is intended to provide for areas appropriate for multi-unit residential units containing attached or detached dwelling units. The proposed project provides 92 multi-family attached dwelling units and is therefore consistent with this designation.
6. The proposed project is consistent with the development standards within NBMC Section 20.18.030 (Residential Zoning Districts and General Development Standards) regarding density, lot area, lot width, site coverage, open space, and parking. The proposed two-car garages attached to each residential unit provide interior dimensions of 20 feet wide by 20 feet deep, and will also accommodate refuse storage. The minimum size required for narrow lots pursuant to NBMC Section 20.40.090 (Parking Standards for Residential Uses) is 17-feet 6inches wide by 19-feet deep. Each residential unit is approximately 21-feet wide at the ground level; therefore, it is appropriate to apply the narrow lot garage standards.
7. The proposed setbacks are consistent with the purpose and intent of the RM-6,000 Zoning District and the 2-foot adjustment is allowed with an approved Planned Development Permit. Setbacks between structures ensure adequate light and air to individual dwelling units. The proposed 18-foot second-story front setback on Irvine Avenue is adequate and, compatible with surrounding uses, and allows for increased articulation in the building façade. The existing 114-unit apartment complex features a front setback of 6 to 30 feet on Irvine Avenue, which faces a single-family residential neighborhood of Costa Mesa. The apartments have several parking lots and carport structures also fronting Irvine Avenue. The proposed design, with increased setback to 18 feet and front doors facing Irvine Avenue, creates a more pedestrian-oriented frontage that is compatible with the neighborhood across Irvine Avenue. The proposed design also includes a landscaped parkway and sidewalk along Irvine Avenue.
8. The proposed development is designed to be energy efficient and will allow for the future installation of solar panels. Landscaping will be required to comply with the requirements of the Water Efficient Landscape Ordinance.
9. The proposed project is designed with an architectural style and scale that are compatible with and complementary to the surrounding neighborhood. The proposed project is a redevelopment of an aging 114-unit apartment complex to a 92-unit condominium development mix. Besides the setback request, the proposed project complies with the development standards of the RM-6,000 Zoning District. The proposed buildings range from 32 feet 8 inches to 33 feet in height. The provision of canopies along the first floor units facing Irvine Avenue provides a more pedestrian-oriented development that helps to ensure that the project is an integrated part of the area.

10. The project site is located to the north of the abutting Westcliff Plaza commercial center, which contains resident-serving uses including a grocery store, food service establishments and a pharmacy, among others. The proposed residential design features a pedestrian access point to the shopping center along the shared property line near Rutland Road to encourage a convenient and harmonious relationship between the residential and commercial uses.

Finding:

- B. *The project would produce a development of higher quality and greater excellence of design than that might otherwise result from using the standard development regulations.*

Facts in Support of Finding:

1. The proposed project provides increased common open space compared to the minimum required by the Zoning Code, with 6,900 square feet required and 21,495 square feet provided, including landscaped areas and recreational amenities including a pool and spa, seating and gathering areas, two fireside lounge areas, and an outdoor dining area. The proposed project will provide quality building design through complementary materials, building articulation and modulation, and varied roof planes to provide increased visual interest. Internal streets and walkways allow for separation between buildings and efficient circulation onsite.
2. The project design is described as contemporary California coastal architecture with comprehensive and cohesive designs. The colors of the materials will include white, beige, blue, green, and gray. Materials will include a combination of board and batten siding, horizontal lap siding, shingle siding, stucco, and metal elements. Any stucco on the building will have a smooth finish. The project is designed with buildings offset from vehicle entrances to create visual interest from the street and prevent long, unarticulated driveway appearances. Canopies over front doors fronting on Irvine Avenue provides for a pedestrian-oriented development that integrate the project into the surrounding area.

Finding:

- C. *The subject site is adequate in terms of size, shape, topography, and circumstances to accommodate the proposed development.*

Facts in Support of Finding:

1. The subject property is 5.76 acres, only slightly irregular in shape, and is fairly flat. The site is adequate to accommodate the proposed 92 multi-family dwelling units, open space, and landscaping within the minimum and maximum density allowed by the Zoning Code and General Plan.
2. Vehicular site access is being reduced from eight driveways at the existing development to three, with one taking access from Irvine Avenue and two from Rutland Road.

3. Pedestrian access to the abutting Westcliff Plaza commercial center is proposed along the southern property line of the proposed project to encourage a harmonious relationship between the residential condominiums and the commercial uses. The pedestrian access will create a walkable development that provides convenient access to retail and service uses.
4. The Public Works Department and Fire Division have reviewed and approved the proposed project design, including emergency access.

Finding:

- D. The project, as conditioned, will not have a substantial adverse effect on surrounding properties or allowed uses.*

Facts in Support of Finding:

1. The proposed project provides adequate separation from structures to adjacent properties. The recreational area is located towards the center of the property, which will reduce any potential noise or odor impacts to the neighborhood from surrounding properties.
2. The site has been designed to reduce potential impacts to the dwellings from the adjacent Westcliff Plaza commercial center to the south by designing the floor plans such that interior stairwells are along the southerly boundary to minimize noise intrusion from commercial activities, including the loading dock. The project design also proposes that the existing block wall separating the two properties remain, which ranges in height up to 11.6 feet and further minimizes potential noise impacts to the residential uses.
3. The project site is adjacent to Mariners Elementary School to the north across Mariners Drive. The proposed design includes eliminating two driveways on Mariners Avenue, featuring instead one vehicular entrance from Irvine Avenue and two from Rutland Road. This reduces turning activity on Mariners Drive and provides a safer and more compatible relationship between the proposed residential project and the elementary school. The project also features a 6-foot landscaped setback along Mariners Drive including five existing trees to be protected in place.
4. Across Rutland Road to the east of the project site are multi-family residences with pedestrian access from Rutland Road. Because these residences have vehicular access from an alley, the proposed two driveways to the proposed project from Rutland Road will not create a traffic hazard. The project also features a 6-foot landscaped setback along Rutland Road, including eight existing trees to be protected in place.
5. The conditions of approval will ensure compliance with applicable rules and regulations, reduce potential lighting glare impacts, and ensure maintenance of landscaping.

Finding:

- E. The project includes improved quality of life provisions and enhanced amenities, including an additional and appropriate variety of structure placement and orientation opportunities,*

*appropriate mix of structure sizes, high quality architectural design, common open space, landscaping, parking areas, private open space, public art, recreational amenities for adults and/or children, private or separated entrances, sustainable improvement standards (e.g., energy efficient building design, construction, and operation; convenient pedestrian and bicycle circulation; water and resource conservation)., etc.*

Facts in Support of Finding:

1. The site design includes a mix of east-west and north-south oriented buildings that provide variety of structure placement to promote visual interest. The proposed dwelling units each have a separate entrance. The units range in size from 1,724 to 2,742 square feet across seven floor plan options. Private open space is provided for each unit by ground level patios and second and third floor decks and balconies. Private open space per unit ranges from 375 to 936 square feet across the seven floor plan options, and the total exceeds the minimum requirement. Each unit includes a 2-car garage and 47 guest parking spaces are provided throughout the site.
2. A recreational area is provided for the residents for use by both adults and children, including a pool and spa, restroom, seating and lounge areas, a barbeque, deck areas, turf area, short term bicycle parking, and landscaping. Landscaping is proposed throughout the site, with significant plantings along the front, rear and exterior side property lines, along interior streets, at the project entrance, and in the recreational area.
3. The proposed design includes complementary materials, building articulation and modulation, and varied roof planes to provide increased visual interest. The applicant describes the proposed design as contemporary California coastal architecture with traditional clean design. The materials will include a combination of detailed wood-like siding, stucco, and metal elements. The structures are designed to be energy efficient and will include tankless water heaters, energy efficient heating systems with built-in air conditioning. The project is required to comply with the Water Efficient Landscape Ordinance, and the landscaping pallet for the development will be drought tolerant with an emphasis on low water demands.

Finding:

- F. The design, location, operating characteristics, and size of the project would be compatible with the existing and future uses in the vicinity, in terms of aesthetic values, character, scale, and view protection.*

Facts in Support of Finding:

1. The project is located in the RM-6,000 Zoning District and is compatible with the existing and allowed uses in the area including multiple-unit residential, commercial, and public facility uses. The project meets the minimum and maximum standards of the Zoning Code and General Plan. The use will remain residential.

2. The proposed project provides a reduction in driveways on Irvine Avenue, from three to one driveway, a reduction in driveways on Rutland Road, from three to two driveways, and the elimination of two driveways on Mariners Drive. Driveway placement has been reviewed by the traffic engineer and is designed to promote safe and convenient vehicle entry.
3. The proposed design includes complementary materials, building articulation and modulation, and varied roof planes to provide increased visual interest. The applicant describes the proposed design as contemporary California coastal architecture with traditional clean design. The materials will include a combination of detailed wood-like siding, smooth stucco, and metal elements.
4. No views are compromised by the proposed development, which replaces an aging 114-unit apartment complex with 92 modern residential condominiums. The project features three distinct elevation styles with variations in color and materials to promote consistency with the variety of housing types in the vicinity, including a single family neighborhood across Irvine Avenue in Costa Mesa and multi-family residences across Rutland Road. The project proposes the protection of existing mature street trees along Rutland Road and Mariners Drive to maintain the appearance of an established residential neighborhood.
5. The proposed design includes three-story building with sloping roofs up to 33 feet in height, the maximum permitted in the RM-6,000 Zoning District. The project replaces a two-story apartment development and maintains compatibility with the scale of the surroundings through building articulation and varied roof planes.

In accordance with NBMC Section 19.12.070 [Required Findings for Action on Tentative Maps (66412.3, 66473 *et seq.*)], the following findings and facts in support of such findings are set forth:

Finding:

- G. *That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The subject property has a General Plan Land Use Element designation of Multiple-Unit Residential (RM). This category is intended to provide primarily for multi-family residential development containing attached or detached dwelling units. The General Plan Land Use Element Figure LU10 allows a maximum density of 20 units per acre. The proposed project does not exceed the maximum allowable density of 115 units.
2. The proposed project is consistent with General Plan Policy LU 5.1.9, which requires multi-family dwellings to be designed to convey a high quality architectural character in regards to building elevations, ground floor treatment, roof design, parking, open space,

and amenities. Parking is provided as attached garages integrated within the residential structures, with the guest spaces throughout the site uncovered.

3. The property is not located in a specific plan area.
4. The Public Works Department has reviewed the proposed tentative tract map and found it consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act.

Finding:

*H. That the site is physically suitable for the type and density of development.*

Fact in Support of Finding:

1. The subject property is 5.76 acres, slightly irregular in shape, and is fairly flat, which is adequate to accommodate the proposed 92 multi-family dwelling units, open space, and landscaping within the minimum and maximum density allowed by the Zoning Code and General Plan. The site is not within a zone deemed to be subject to seismically induced liquefaction potential. A drainage study and sewer demand study have been prepared and reviewed by the Public Works Department to ensure that the storm drain and sewer main are adequate.

Finding:

- I. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife in their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act ("CEQA") that specific economic, social or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The site is in an urbanized area that does not contain any sensitive vegetation or habitat and is currently a development with a 114 unit apartment complex.
2. The project is categorically exempt under Section 15302 of the CEQA Guidelines for the reasons noted in Section 2 of this Resolution.

Finding:

- J. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*



Facts in Support of Finding:

1. The proposed Tentative Tract Map is for condominium purposes. All construction for the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- K. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to the ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Facts in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use within the proposed development, because there are no public easements located on the property.

Finding:

- L. That, subject to the provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.

Finding:

- M. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) There is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a “land project” as previously defined in Section 11000.5 of the California Business and Professions Code, because the project site does not contain 50 or more parcels of land.

Finding:

*N. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Section 66473.1 and 66475.3 of the Subdivision Map Act.*

Facts in Support of Finding:

1. The Tentative Tract Map includes attached dwelling units with open space, private streets, and walkways separating individual structures. The proposed subdivision design allows for solar access and future passive or natural heating and cooling opportunities.
2. The proposed construction and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

*O. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The minimum and maximum residential density allowed for the site will remain unchanged with the project approval. The proposed 92-unit development is consistent with the minimum 92 units and maximum 115 units allowed on this 5.76-acre site in the RM-6,000 Zoning District. The site is currently developed with 114 apartment units. The minor reduction of units will not affect the City's ability to meet its regional housing goals.

Finding:

*P. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board (“RWQCB”).*

Fact in Support of Finding:

1. The new condominium development is designed so that wastewater discharge into the existing sewer system complies with the RWQCB requirements.

Finding:

*Q. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Facts in Support of Finding:

1. The subject property is not located in the Coastal Zone.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Planning Commission of the City of Newport Beach hereby approves Planned Development Permit PL2018-001 and Tentative Tract Map No. NT2017-005, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the City Council in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 21ST DAY OF JUNE, 2018.**

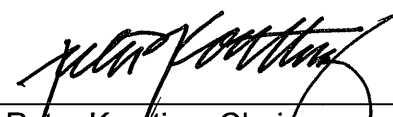
AYES: Dunlap, Koetting, Kramer, Lowrey, Weigand and Zak

NOES:

ABSTAIN:

ABSENT: Kleiman

BY:

  
Peter Koetting, Chairman

BY:

  
Erik Weigand, Secretary

**EXHIBIT “B”**

**CONDITIONS OF APPROVAL**

*(Project-specific conditions are in italics)*

**PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval.) Future additions, including enclosing decks, are prohibited. Major changes in building color, materials, or architecture require approval by the Community Development Director.
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Planned Development Permit.
4. *Planned Development Permit No. PL2018-001 and Tentative Tract Map No. TP2017-005 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.91.050, unless an extension is granted.*
5. A copy of the Resolution, including conditions of approval Exhibit “B” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building or grading permits.
6. *Prior to final map approval, the applicant shall submit draft Covenants Conditions and Restrictions (CC&Rs) that are prepared by an authorized professional for review and approval by the Director Community Development, which will be recorded concurrently with the Final Map, and while will generally provide for the maintenance of all common areas and the requirement that garages are to be used for vehicle parking.*
7. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or leasing agent.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. *The project shall maintain setbacks and encroachments consistent with NBMC 20.30.110, with the exception of a two-foot encroachment into the 20-foot front setback permitted on the second and third floors of the ten residential units facing Irvine Avenue consistent with the approved plans.*

10. *Prior to the issuance of a building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices in compliance with NBMC Chapter 14.17 (Water Efficient Landscaping Ordinance). The plans shall be reviewed and approved by the Planning Division.*
11. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
12. All lighting shall conform with the standards of NBMC Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
13. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

14. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
15. *Building materials shall be high quality, durable, authentic to the architectural style, and applied in a quality fashion. Any stucco on the building shall have a smooth finish.*
16. *Any portion of the roof that extends beyond 28 feet in height shall have a minimum pitch of 3:12.*
17. *Building owners and tenants shall keep the building exteriors and facades clean and in good repair.*
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits,

losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Mariner Square Planned Development Permit and Tract Map including, but not limited to, Planned Development Permit No. PL2018-001 and Tentative Tract Map No. NT2017-005 (PA2017-248). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Public Works Conditions**

19. A Tract Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to the recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphical file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Sub article 18. The Map submitted to the City of Newport Beach shall comply with the City's CADD standards. Scanned images will not be accepted.
20. Prior to the recordation of the Tract Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the horizontal control system established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and the Orange County Subdivision Manual, sub article 18. Monuments (one inch iron pipe with tag) shall be set on each lot corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of the construction project.
21. Prior to the recordation of the Tract Map, a Subdivision Agreement shall be obtained and approved by the City Council.
22. Prior to Final Map approval, the applicant shall provide a Faithful Performance Bond and a Labor and Materials Bond, each for 100 percent of the estimated improvement cost, as prepared by a Registered Civil Engineer and approved by the Public Works Director, for each of the following, but not limited to, public and private improvements, street improvements, monumentation, sidewalks, striping, signage, street lights, sewer system, water system, storm drain system, water quality management system, erosion control, landscaping and irrigation within public right of way, common open spaces areas accessible by the public and off-site improvements required as part of the project.
23. Warranty bond for a minimum of 10 percent of the engineers cost estimate (final percentage to be determined by the Public Works Director) to be released 1-year after improvements have been accepted.

24. An encroachment permit is required for all work activities within the public right of way.
25. All improvements shall comply with the City's sight distance standard STD-110-L.
26. In case of damage done to public improvements surrounding the development site by the private construction, said damage shall be repaired and/or additional reconstruction within the public right-of-way may be required.
27. All on-site drainage shall comply with the latest City water quality requirements.
28. *Reconstruct the existing curb, gutter and sidewalk along the entire Irvine Avenue, Mariners Drive, Rutland Road property frontages, extent to be determined by the Public Works Inspector.*
29. *Irvine Avenue will be on the City's street-cut moratorium list. Mariners Drive and Rutland Road are currently on the City's Street-cut moratorium list. Any damage to or trenching in said streets shall require moratorium street repair per City Standard.*
30. Final Construction Management Plan ("CMP") shall be reviewed and approved by the Community Development Director and City Traffic Engineer prior to building permit issuance. Any proposed changes to the final CMP after permit issuance shall be approved by the Community Development Director and City Traffic Engineer prior to implementation.
31. The on-site water system shall be owned and maintained by the City and constructed per City standards.
32. The on-site sewer system 6-inch and larger sewer mains shall be owned and maintained by the City of Newport Beach and constructed per City of Newport Beach standards. All sewer mains smaller than 6-inch and sewer laterals from the sewer main to units shall be privately owned and maintained.
33. An encroachment permit and agreement shall be obtained for all decorative pavement within the public utility easement identifying that the homeowners association is required to maintain and repair.
34. Install accessible compliant curb ramps at the corner of Irvine Avenue/Mariners Drive and Mariners Drive/Rutland Road intersections along the project frontage.
35. All public improvements (i.e. sewer, water, storm drain, street, sidewalk, etc.) within the public right of way or City easement shall be constructed per City standards. Final design shall be approved by the Public Works Department.
36. On-site storm drain system shall be privately owner and maintained.

37. Five (5) 48" box trees shall be located in the right of way along the project frontage as replacement for removed trees. Replacement trees shall be Sycamore or other species approved by the Municipal Operations Division.

### **Fire Division Conditions**

38. An approved fire apparatus access road shall be provided within 150 feet of all portions of the structures measured by an approved route around the exterior of the buildings. California Fire Code ("CFC") Section 503.1.1. Fire Department ("NBFD") Guideline C.01 and C.02 should be utilized to comply with access requirements.
39. Blue hydrant identification markers shall be placed adjacent to fire hydrants.
40. Apparatus access roads must be constructed of a material that provides an all-weather driving surface, capable of supporting 72,000 pounds imposed load for fire-apparatus, and truck outrigger loads of 75 pounds per square inch over a two-foot area. Calculations stamped and signed by a registered professional engineer shall certify that the proposed surface meets the criteria of an all-weather driving surface and is capable of withstanding the weight of 72,000 pounds NBFD Guideline C.01.
41. Fire lanes shall be marked as per NBFD Guideline C.02.
42. As per NBFD Guideline C.01, the minimum width of the street shall be 36 feet, with parking allowed on both sides. The minimum width of the street shall be 32 feet, with parking allowed on one side. The minimum width of the street shall be 20 feet, with no parking on either side. The width shall be increased to 26 feet within 30 feet of a hydrant, no vehicle parking allowed.
43. Dead-end fire apparatus access roads in excess of 150 feet in length shall be provided with an approved area for turning around fire apparatus. CFC 503.2.5.
44. Fire Flow will be required and must be determined and submitted with the architectural plan check. CFC Sec. 507.3 NBFD Guideline B.01 shall be utilized to complete the fire flow.
45. Fire hydrants (number also depends on fire flow) will be required to be located within 400 feet as measured by an approved route around the exterior of the structure. CFC 507.5.1.
46. Where a portion of the structure is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the structure, on-site fire hydrants and mains shall be provided where required by the fire code official. CFC Sec. 507.5.1.
47. As per CFC Sec. 304.3.3, dumpsters and container with an individual capacity of 1.0 cubic yards (200 gallons) or more shall not be stored in buildings or placed within 5 feet of combustible walls, openings or combustible roof eave lines unless the dumpsters are constructed of noncombustible materials or of combustible materials with a peak rate of heat release not exceeding 300 kW/M<sup>2</sup> where tested in accordance with ASTM E1354 at an incident heat flux of 50 kW/M<sup>2</sup> in the horizontal orientation. Exception: Storage in a structure



shall not be prohibited where the structure is of Type I or IIA construction, location not less than 10 feet from other buildings and used exclusively for dumpster or container storage.

48. Fire appliances such as fireplaces, fire pit tables, or fire features must be a listed appliance. Manufactures specifications, which recommend the distances to combustibles that appliance, must be maintained will be required at the time of the plan review.
49. Buildings shall be provided with approved addresses. The address identifications shall be legible and placed above or immediately adjacent to all doors that allow fire department access. In no case shall the number be less than four inches in height with a one-half inch stroke. Address numbers shall contrast with their background and shall be either internally or externally illuminated to be visible at night. CFC amended Sec. 505.1.1.
50. A fire alarm that activate the occupant notification system shall be installed in Group R-2 occupancies where dwelling units, sleeping units are located three or more stores above the lowest level of exit discharge. 907.2.9.
51. Single or multiple station smoke alarms shall be installed and maintained in Group R-2 occupancies. CFC Section 907.2.11.2.
52. Fire pits must be installed as per the manufactures recommendations and 2016 California Mechanical Code Section 925.1 with regard to distance to combustible etc.
53. Charcoal burners and other open-flame cooking devices shall not be operated on combustible balconies or within 10 feet of combustible construction. CFC Sec. 308.1.4,
54. Fire extinguishers are required and are to be located within 75 feet of all front entrance doors. CFC Sec. 906.1.
55. An automatic sprinkler system (13R) installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area. CFC Section 903.2.8.
56. The underground fire line will be reviewed by the fire department. A separate submittal is required, which requires an "F" Permit. The underground fire line is a separate submittal (cannot be part of the overhead fire sprinkler plans, nor precise or rough grading plans) and must be designed as per NBFD Guideline F.04 "Private Hydrants and Sprinkler Supply Line Underground Piping."
57. Approved vehicle access for firefighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections.
58. Proposed fencing cannot obstruct existing water supply (fire hydrants) from the existing and proposed structure.