

OC PLANNING REPORT

DATE: December 8, 2021 *As amended by Planning Commission)*

TO: Orange County Planning Commission

FROM: OC Development Services / Planning

SUBJECT: Public Hearing on Planning Application PA20-0133 for a Use Permit for a 10-unit detached condominium planned development.

PROPOSAL: A request for a Use Permit to develop a planned development that establishes site specific development standards. Project will consist of 10 2-story detached structures and associated off-street parking

ZONING: North Tustin Specific Plan (NTSP) - “Residential Multiple Family” (RMF) District and R1 “Single Family Residential”

GENERAL PLAN: 1B “Suburban Residential”

LOCATION: The property is located at 1091, 1111 and 1121 Wass Street in the North Tustin unincorporated area, within the Third (3rd) Supervisorial District. (APN 501-071-07, -08, and -09.)

APPLICANT: REECO Communities LLC, Property owner
Hunsaker & Associates, Agent

STAFF CONTACT: Kevin Canning, Associate Planner
Phone: (714) 667-8847
Email: Kevin.Canning@ocpw.ocgov.com

RECOMMENDED ACTIONS

OC Development Services recommends that the Planning Commission:

- 1) Receive staff report and public testimony as appropriate;
- 2) Find that the proposed project qualifies for an exemption from CEQA per Section 21159.25 of the Public Resources Code; and,
- 3) Approve Planning Application PA20-0133, a Use Permit for 10-unit detached condominium planned development, establishing site specific development standards, including an over-height wall, subject to the attached Findings and Conditions of Approval. **with the deletion of Condition No. 8**

BACKGROUND AND EXISTING CONDITIONS

The project site is comprised of three existing parcels all fronting onto Wass Street in the North Tustin Specific Plan (NTSP) area. Two of the lots lie within the “Residential Multiple Family” (RMF) District of the NTSP. The third lot is within a standard R1 Zoning District, outside of the NTSP. One of the RMF of the lots is currently developed with a single-family home with two accessory structures, these structures would be removed for the proposed project. The other two lots are currently vacant.

The project site is situated on the boundary between the unincorporated County and the City of Tustin across Wass Street to the south. It is surrounded on all sides by existing residential development of varying types – single family, 2 to 10-unit multiple family developments and a large apartment complex.

PROPOSED PROJECT

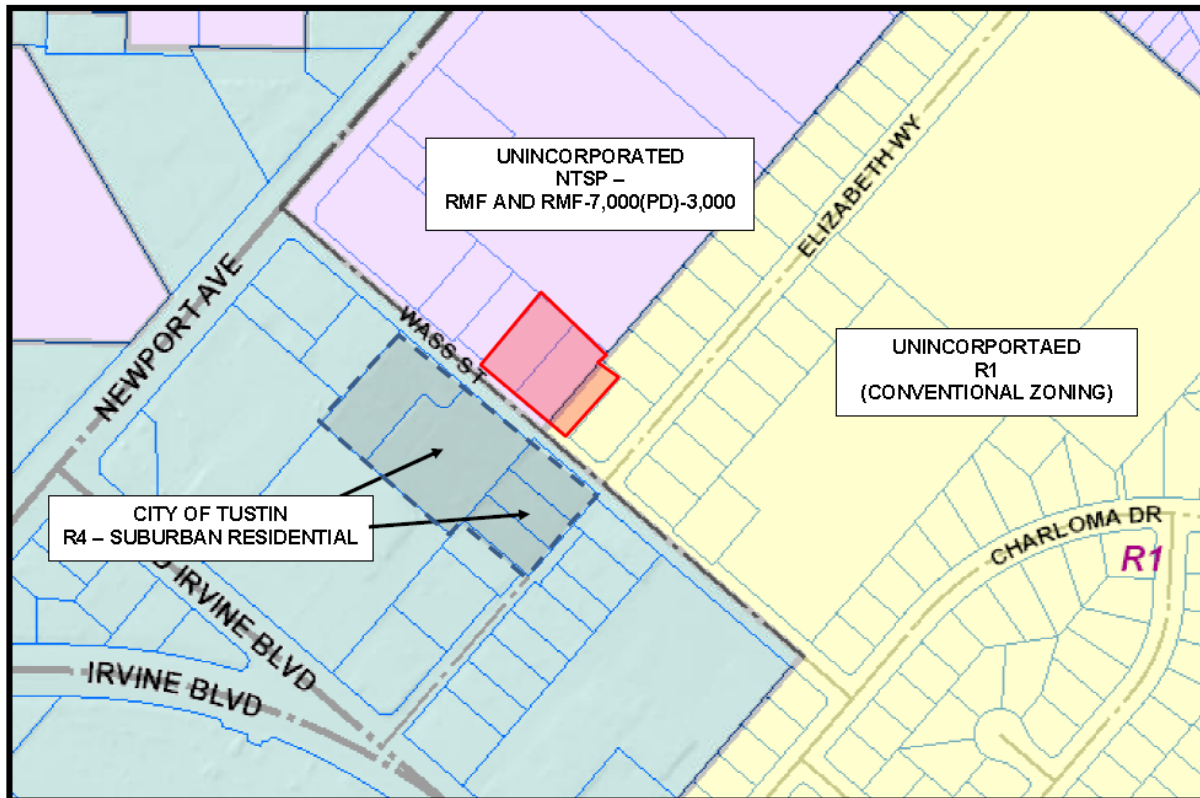
The project proposes a planned development (PD) consisting of ten detached condominium units on a 38,008 square foot site (0.87 acres). The development will consist of two-story structures and include five units with a floor plan of 3 bedrooms (2,033 sf) and five units with a floor plan 4 bedrooms (2,282 sf). All units will have an attached two-car garage and private yard areas.

The combined project site is 38,008 square feet in gross area, and 36,058 square feet in net area (after the dedication of a portion of the frontage for necessary street widening purposes). The project would propose a net density of 12.0 dwelling units per acre. Vesting Tentative Tract Map VTTM 19116 is being processed concurrently.

SURROUNDING LAND USE

The project site is designated “Suburban Residential” (1B) in the County of Orange General Plan. The project site is within two zoning designations, as noted above. An aerial photograph of the site and surrounding residential parcels is provided below. Zoning and existing land uses for other surrounding properties near the project site are as follows:

Direction	Zoning	Existing Land Use
Subject Site	NTSP RMF (Residential Multiple Family) and R1 Single Family	Residential and vacant
North	NTSP RMF 7000 (PD) 3,000	Apartment complex
East	R1 Single-Family Residential	Single family residential
South	City of Tustin R4 Suburban Residential	Multiple and single family
West	NTSP RMF	Multi-family residential



Aerial Photograph of Project Site



DISCUSSION/ANALYSIS

Below is a table comparing the development standards for the North Tustin Specific Plan’s RMF District with the Applicant's proposal:

STANDARD	REQUIRED FOR PD	PROPOSED
Building Site Area	10,000 sf min.	36,058 sf (net)
Maximum Building height	35' / 28' in PD (NTSP)	28'
Building Site Coverage	40% max.	31%
Front Setback	20' or per PD	15' *
Side Setback	5' or per PD	5'
Rear Setback	25' or per PD	13' *
Parking (Total)	30	30
Walls (side and rear property line)	6' or per PD	8' *
Area per unit	1,800 sf/unit	2,175 sf
Landscaping	20% minimum	20%

*The Zoning Code allows a planned development to establish specific site development standards as approved with a Use Permit

The R1 Zoning District permits the development of a planned development with the approval of a Use Permit by the Planning Commission. The RFM District of the NTSP also allows a planned development with the approval of a Use Permit by the Planning Commission. The NTSP states development of a “Planned (Unit) Development per Zoning Code 7-9-110 and Chapters 5, 6, and 7 herein with a 28 feet maximum building height” is permitted with approval of a Use Permit from the Planning Commission (NOTE: The Zoning Code Section was renumbered in the latest Zoning Code update and is now Section 7-9-48).

The NTSP also provides design guidelines in Chapter 5 “Landscaping, Buffering, and Screening” and Chapter 7 is “Building Orientation and Character.” The project’s conformity with these regulations and guidelines chapters is discussed below.

Zoning Code Conformity

The full section of the Zoning Code governing Planned Developments is included as Attachment 5, applicable sections are excerpted below.

The Zoning Code’s “Planned Development” (PD) regulations state, as part of its intent for the utilization of the planned development option, that:

“The purpose of this district is to provide a method whereby land may be developed utilizing design features which take advantage of modern site planning techniques to produce an integrated development project providing an environment of stable, desirable character which will be in harmony with existing and potential development of the surrounding neighborhood.

The regulations of this district are intended to produce planned development projects which meet standards of open space, light and air, and density of land uses which provide for better use of common areas, open space and off-street parking facilities and provide for safe and efficient vehicular and pedestrian circulation.”

The PD Section of the Zoning Code states further:
Site development standards.

- (a) *Building site area.* For planned developments, the project's net development area shall be used. The size, location, and configuration of individual lots shall be determined by the required Use Permit and the tract map for the project.
- (b) *Building site coverage.* For planned developments, there shall be no maximum building coverage for any individual site. However, the project's net development area shall not exceed the following building coverage.
 - (1) Forty percent (40%) for residential projects.

- (e) *Building setbacks.* For planned developments, building locations need not satisfy the base district setback regulations but shall be determined by the approved Use Permit. Building locations shall be dimensioned on the Use Permit plans including distances between buildings and distances from streets and common driveways.
- (f) *Planned development projects shall provide the following unless a waiver is granted as part of the Use Permit process.*
- (1) *Open space.* Planned developments shall maximize common open space and provide an adequate level of private open space for each unit. The intent of this district is to provide the opportunity to maximize common open space areas and minimize overall impacts to the site.
 - (2) *Sidewalks.* Planned developments shall provide accessible sidewalks adjacent to each private road to ensure safety of pedestrians within the planned development.
 - (3) *Walls.* Planned developments shall construct a wall or privacy fence around the entire development.

Summary of Zoning Code Consistency

Staff has reviewed the proposed project and recommends that the project be found to conform to the Zoning Code standards. Staff also recommends that a waiver be granted regarding the common open space, sidewalks and perimeter wall standards, based upon a finding that the single-family detached style of development does not lend itself to a large common open space area with sidewalks accessing it and also that a perimeter privacy wall would be inconsistent with the surrounding development as well as the NTSP design guidelines.

Conformity with Chapters 5 and 7 of the NTSP

Full copies of these two sections of the NTSP are included as Attachment 6, staff notes that several of these standards are applicable to only the RGO (Residential Garden Office) district and the GO (Garden Office) overlay district within the NTSP and not to proposed planned developments. The standards applicable to planned developments are listed below:

NTSP - Chapter 5 Landscaping, Buffering and Screening

1. A minimum of fifteen (15) percent (and twenty (20) percent for planned developments) of building site or project net area shall be landscaped. A landscaped area shall consist of trees, shrubs, vines, ground cover, or any combination thereof. Landscaped area shall not include buildings, paving,

swimming pools, gravel or any other assemblage of building materials upon or over the land.

2. Existing mature trees shall be preserved and integrated into the landscape plan wherever possible. Existing mature trees which are removed shall be replaced at a minimum rate of one (1) specimen of twenty-four (24) inch box size per one (1) mature tree removed.
3. Boundary landscaping along primary and major arterial highways shall create a parkway appearance which softens/screens undesirable views. Street trees shall be randomly grouped to create an informal or natural character and be provided at a rate of not less than one (1) tree per twenty-five (25) feet of road frontage.
4. In the interest of public safety, street trees shall be planted a minimum of twenty-five (25) feet from the beginning of curb returns at intersections and a minimum of ten (10) feet from streetlights, fire hydrants and driveways.
5. Outdoor off-street parking areas shall be planted at a rate of one (1) tree per one thousand (1,000) square feet of parking area surface and at a minimum of every fifth parking space in parking bays exceeding ten (10) spaces in length.
6. The required use permit or site development permit shall include a landscape plan in compliance with the above requirements.

PROJECT RENDERING



PROJECT PRELIMINARY LANDSCAPE PLAN



NTSP - Chapter 7 Building Orientation and Character

In addition to the general guidelines contained in Division II, Chapter 1 of this specific plan, the following standards shall be incorporated in project design.

1. Roofs shall be sloped, of hip, gable or shed design. Roofs shall have a minimum pitch of one (1) foot of rise to three (3) feet of run and shall have a maximum pitch of one (1) foot of rise to one (1) foot of run.
2. Direct line of site to abutting residential districts from second story openings, windows, balconies, stairways, stairway landings or other architectural features shall be prohibited. Design solutions for meeting this standard include, but are not limited to, clear story windows, skylights, opaque screens designed as an integral part of the building, recessed windows, setback of the second story, and building

siting or orientation. Landscape materials may be used in combination with but not as a substitution for an architectural design solution.

3. Buildings shall create a residential appearance in conformity with the design guidelines and criteria of the North Tustin Specific Plan.
4. All roof equipment shall be screened from view. The screening material shall be in harmony with building lines, materials and color. Special consideration will be given to mechanical equipment typically located on the roof being enclosed within the building attic (pitched roof), located at grade and screened from view, or located below grade when accessible from subterranean parking facilities or a parking structure.
5. The reflectivity of all exposed surfaces (walls, roofs, windows, frames, and paved surfaces) shall be mitigated by such devices as overhangs, awnings, trellises, plantings and similar features.

Summary of NTSP Consistency

Staff has reviewed the proposed project and recommends a finding that the proposal meets the requirements of the NTSP.

REFERRAL FOR COMMENT AND PUBLIC NOTICE

A copy of the planning application and proposed site plan were distributed for review and comment to applicable County Divisions, OCFA, and the North Tustin Advisory Committee (NTAC).

North Tustin Advisory Committee

NTAC reviewed the application at its meeting of February 17, 2021 and recommended approval with comments (5-1-1) for the proposed project. The meeting minutes are included as Attachment 4. The NTAC meeting included public comments from five area neighbors, none of whom opposed the project but had various concerns. The NTAC action included comments addressing those concerns raised in public comments. NTAC also received a letter on the project from the Foothills Communities Association (FCA). The FCA addressed various project aspects and concluded that they felt those aspects did not conform with the intent of the Planned Development regulations nor was compatible with the surrounding single-family homes. The project applicants provided a written response to the FCA letter to the members of NTAC (the FCA letter and the applicant's response are included within Attachment 4).

The NTAC’s final motion was to recommend approval of the project with the following stipulations and conditions incorporated:

- all of the items set forth in the neighbor emails, including from Ryan Haney (block wall height 8’, install barrier bollards safety measures, plant thick hedges along wall, enact a HOA rule for excessive idling) will be incorporated into the project;
- HOA requirement for two cars parked in garage at all times so parking isn’t on the streets, the CC&R would state the garages are for parking only and not storage; and,
- all units be no more than 2 stories.*

* Staff notes that the applicants had originally filed the project with a proposed maximum height of 3-stories (35’) for the five rear structures, intending to utilize the flexibility within the Zoning Code to propose site specific development standards. However, after receiving the above recommendations from NTAC, the applicants submitted revised plans and project descriptions to the County such that the project now conforms to all of the NTAC recommendations.

Staff has reviewed all County departmental comments received, and where appropriate, has addressed the comments through recommended Conditions of Approval, which are provided as Attachment 2. Public notices were mailed to all owners of record within 300 feet of the subject property, and posted in front of the project site, the Orange County Hall of Administration at 333 W. Santa Ana Boulevard, and in the lobby at the County Administration South (CAS) building located at 601 N. Ross St at least ten days prior to this public hearing, as required by established public hearing posting procedures.

CEQA COMPLIANCE

The California Environmental Quality Act (CEQA) provides statutory exemptions for specific types of projects, which include housing projects. Statutory exemptions are specific exemptions from CEQA granted by the State Legislature. Section 21159.25 of the Public Resources Code exempts residential and mixed-use housing projects from compliance with CEQA provided certain conditions are met. These conditions pertain to consistency with applicable general plan designations and zoning regulations, density consistent with adjacent development, location in an unincorporated area, size of development, lack of habitat value, no significant effects relating to transportation, noise, air quality, greenhouse gas emissions, or water quality, availability of utilities, and on legal parcels within the boundaries of an urbanized area or urban cluster.

A review of the proposed project’s plans and proposal resulted in a determination that all required conditions of Section 21159.25 have been met and the project may be found


statutorily exempt from CEQA. Use of a Statutory Exemption is consistent with Section 10.2 of the Orange County 2020 Local CEQA Procedures Manual.

CONCLUSION


Staff has determined that the proposed project complies with the NTSP development standards and architectural guidelines, as well as the provisions of Zoning Code Section 7-9-48 (as amended) regarding planned developments. Staff supports the Use Permit proposal and its approval, subject to Findings and Conditions of Approval provided in Attachments 1 and 2.

Submitted by:

Concurred by:



Laree Alonso,
Interim Planning Division Manager
OC Development Services/Planning



Amanda Carr, Interim Deputy Director
OC Public Works/Development Services

ATTACHMENTS

1. Recommended Findings
2. Recommended Conditions of Approval
3. Applicant's Letter of Explanation
4. NTAC Minutes with attachments
5. Zoning Code – Planned Development
6. NTSP – Chapters 5 and 7
7. Statutory Exemption Assessment
8. Project Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Planning Commission on this permit to the Orange County Board of Supervisors within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$500 filed at the County Service Center, 601 N Ross St., Santa Ana. If you challenge the action taken on this proposal in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this report, or in written correspondence delivered to OC Development Services / Planning Division.



Attachment 1

Findings

PA20-0133

1 **GENERAL PLAN** **PA20-0133**

That the use or project proposed is consistent with the objectives, policies, and general land uses and programs specified in the General Plan adopted pursuant to the State Planning and Zoning Law.

2 **ZONING** **PA20-0133**

That the use, activity and improvement proposed, subject to the specified conditions, are consistent with the provisions of the Zoning Code, and specific plan regulations applicable to the property. Further, as permitted by Zoning Code Section 7-9-48 for Planned Developments, the Planning Commission grants a waiver of the Code's provisions regarding common open space, interior sidewalks and perimeter wall standards, based upon a finding that the single-family detached style of the proposed development does not lend itself to a large common open space area with sidewalks accessing it and also that a perimeter privacy wall would be inconsistent with the surrounding development as well as other North Tustin Specific Plan design guidelines.

3 **COMPATIBILITY** **PA20-0133**

That the location, size, design and operating characteristics of the proposed use will not create unusual conditions or situations that may be incompatible with other permitted uses in the vicinity.

4 **GENERAL WELFARE** **PA20-0133**

That the application will not result in conditions or circumstances contrary to the public health and safety and the general welfare.

5 **PUBLIC FACILITIES** **PA20-0133**

That the approval of the permit application is in compliance with Codified Ordinance Section 7-9-711 regarding public facilities (fire station, library, sheriff, etc.).

6 CEQA FINDING PA20-0133 (Custom)

That the proposed project has been determined to meet all required conditions of Section 21159.25 and therefore the project has been found statutorily exempt from CEQA. Use of a Statutory Exemption is consistent with Section 10.2 of the Orange County 2020 Local CEQA Procedures Manual. Attachment 7 to the project staff report, included herein, provides further detail regarding the project's consistency with this exemption.

7 SPECIFIC PLAN CONSISTENCY PA20-0133 (Custom)

That the proposed project, together with the provisions for its design and improvement, is consistent with the North Tustin Specific Plan.



Attachment 2
Conditions of Approval
PA20-0133

1 BASIC/ZONING REGULATIONS PA20-0133

This approval constitutes approval of the proposed project only to the extent that the project complies with the Orange County Zoning Code and any other applicable zoning regulations. Approval does not include any action or finding as to compliance or approval of the project regarding any other applicable ordinance, regulation or requirement.

2 BASIC/TIME LIMIT PA20-0133

This approval is valid for a period of 36 months from the date of final determination. If the use approved by this action is not established within such period of time, this approval shall be terminated and shall thereafter be null and void.

3 BASIC/LAND USE PLAN PA20-0133

Except as otherwise provided herein, this permit is approved as a land use plan. If the applicant proposes changes regarding the location or alteration of any use or structure, the applicant shall submit a changed plan to the Director, OC Development Services, for approval. If the Director, OC Development Services, determines that the proposed change complies with the provisions and the spirit and intent of the original approval action, and that the action would have been the same for the changed plan as for the approved plot plan, he may approve the changed plan without requiring a new public hearing.

4 BASIC/COMPLIANCE PA20-0133

Failure to abide by and faithfully comply with any and all conditions attached to this approving action shall constitute grounds for the revocation of said action by the Orange County Planning Commission.

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6 INDEMNIFICATION PA20-0133

Applicant shall, at its own expense, defend, indemnify and hold harmless the County of Orange, its officers, agents and employees from any claim, action or proceeding against the County, its officers, agents or employees to attack, set aside, void, or annul any

approval of the application or related decision, or the adoption of any environmental documents, findings or other environmental determination, by the County of Orange, its Board of Supervisors, Planning Commission, Zoning Administrator, Subdivision Committee, Director of OC Public Works, or Deputy Director of OC Development Services concerning this application. The County may, at its sole discretion, participate in the defense of any action, at the applicant's expense, but such participation shall not relieve applicant of his/her obligations under this condition. Applicant shall reimburse the County for any court costs and attorney's fees that the County may be required to pay as a result of such action. If litigation is filed challenging the Project, the County may, at its sole discretion, require the Applicant to post a bond, enter into an escrow agreement, obtain an irrevocable letter of credit from a qualified financial institution, or provide other security, to the satisfaction of the County, in anticipation of litigation and possible attorney's fee awards. The County shall promptly notify the applicant of any such claim, action or proceeding.

7

BASIC/APPEAL EXACTIONS

PA20-0133

Pursuant to Government Code Section 66020, the applicant is hereby informed that the 90-day approval period in which the applicant may protest the fees, dedications, reservations or other exactions imposed on this project through the conditions of approval has begun.

Condition No. 8 - Fuel Mod Plan was deleted by Planning Commission as being inapplicable to the subject site.

9

GEOLOGY REPORT

PA20-0133

Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Building & Safety, for approval. The report shall include the information and be in the form as required by the Grading Code and Grading Manual.

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PRIVATE LANDSCAPING

PA20-0133

- A. Prior to the issuance of precise grading permits, the applicant shall submit a detailed landscape plan for the project area which shall be approved by the Manager, Building and Safety in consultation with the Manager, OC Planning. The plan shall be certified by a professional appropriately licensed

in the State of California, as required, as taking into account approved preliminary landscape plan (if any), County Standard Plans for landscape areas, adopted plant palette guides, applicable scenic and specific plan requirements, and water conservation measures contained in the County of Orange Landscape Code (Ord. No. 09-010).

- B. Prior to the approval of final inspection, applicant shall install said landscaping and irrigation system and shall have a licensed landscape architect or licensed landscape contractor, certify that it was installed in accordance with the approved plan.
- C. Prior to the approval of final inspection, the applicant shall furnish said installation certification, including an irrigation management report for each landscape irrigation system, and any other implementation report determined applicable, to the Manager, Building & Safety.
- D. The detailed landscape plans shall also be submitted to the Planning Director and shall include details regarding the enhanced landscaping, 8' wall height and parking bollards for the parking area along the easterly property line.

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ROAD FEE PROGRAM

PA20-0133 (Custom)

Prior to the issuance of building permits, the applicant shall pay applicable fees for the Major Thoroughfare and Bridge Fee Program listed below, in a manner meeting the approval of the Manager, Permit Services.

- a. Foothill/Eastern Transportation Corridor, Zone B

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**WATER QUALITY MANAGEMENT
PLAN**

PA20-0133

Prior to the issuance of any grading or building permits, the applicant shall submit for review and approval by the Manager, Building & Safety, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. The applicant shall utilize the Orange County Drainage Area Management Plan (DAMP), Model WQMP, and Technical Guidance Manual for reference, and the County's WQMP template for submittal. This WQMP shall include the following:

- Detailed site and project description
- Potential stormwater pollutants
- Post-development drainage characteristics
- Low Impact Development (LID) BMP selection and analysis
- Structural and Non-Structural source control BMPs
- Site design and drainage plan (BMP Exhibit)
- GIS coordinates for all LID and Treatment Control BMPs

- Operation and Maintenance (O&M) Plan that (1) describes the long-term operation and maintenance requirements for BMPs identified in the BMP Exhibit; (2) identifies the entity that will be responsible for long-term operation and maintenance of the referenced BMPs; and (3) describes the mechanism for funding the long-term operation and maintenance of the referenced BMPs

The BMP Exhibit from the approved WQMP shall be included as a sheet in all plan sets submitted for plan check and all BMPs shall be depicted on these plans. Grading and building plans must be consistent with the approved BMP exhibit.

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**COMPLIANCE WITH THE NPDES PA20-0133
IMPLEMENTATION PROGRAM**

Prior to the issuance of a certificate of use and occupancy, the applicant shall demonstrate compliance with the County's NPDES Implementation Program in a manner meeting the satisfaction of the Manager, OC Inspection, including:

- Demonstrate that all structural Best Management Practices (BMPs) described in the BMP Exhibit from the project's approved WQMP have been implemented, constructed and installed in conformance with approved plans and specifications
 - Demonstrate that the applicant has complied with all non-structural BMPs described in the project's WQMP
 - Submit for review and approval an Operations and Maintenance (O&M) Plan for all structural BMPs (the O&M Plan shall become an attachment to the WQMP);
 - Demonstrate that copies of the project's approved WQMP (with attached O&M Plan) are available for each of the initial occupants;
 - Agree to pay for a Special Investigation from the County of Orange for a date twelve (12) months after the issuance of a Certificate of Use and Occupancy for the project to verify compliance with the approved WQMP and O&M Plan;
 - Demonstrate that the applicant has RECORDED one of the following:
 1. CC&R's or other appropriate document (that must include the approved WQMP and O&M Plan) for the project's operator/owner;
 2. A water quality implementation agreement that has the approved WQMP and O&M Plan attached; or
 3. The final approved Water Quality Management Plan (WQMP) and Operations and Maintenance (O&M) Plan.
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ASSOCIATION LIMITATIONS PA20-0133 (Custom)

Prior to the issuance of a grading permit, the applicant shall submit a letter to the Planning Director affirming the homeowner restrictions per North Tustin Advisory Committee recommendations that will be implemented and/or be included with the project's CC&Rs regarding:

- a) use for garage areas for vehicles (not storage)
 - b) advisory to homeowners to limit auto idling in the east parking area
 - c) increased hedge-type landscaping along the east wall,
 - d) placement of bollards in front of east parking area, and
 - e) utilization of trash pick-up options 2 or 3 (Option 1 not approved)
-