



**FILE:** PA04-0032

**DATE:** August 10, 2004  
**TO:** File/Record/Applicant  
**FROM:** Tim Neely, Director RDMD/ Planning and Development Services  
**SUBJECT:** Planning Application PA04-0032 for Site Development Permit  
**APPLICANT:** The Irvine Company

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**I. NATURE OF PROJECT:**

The proposal is the completion of the retail commercial area in Planning Areas 3B and 14 in the Newport Coast Planned Community/LCP. The proposal is located on the inland side of Pacific Coast Highway between Crystal Heights Drive and Reef Point Drive and is known as Crystal Cove Promenade. The project proposes to develop the three freestanding pads in the previously approved shopping Center. The subject building pads were included in the project's Coastal Development Permit No. PA98-0101 approved by the County of Orange Planning Commission on September 22, 1998. Condition of Approval No. 7 of that Coastal Development Permit required approval of a Site Development Permit prior to construction on the three pads. This Site Development Permit satisfies that condition. In association with PA98-0101, Changed Plan CP00-0058 was approved October 3, 2000, which among other changes, increased the building pad area for Pads 2 and 3, and added 3,000 square feet of outdoor sales area adjacent to building labeled A-1. The outdoor sales area was later changed to 1,000 square feet of outdoor dining when a restaurant use was added to a portion of the existing A-1 building.

Development of the proposed three building pads is as follows:

Pad 1: The proposed use is as a 5,100 square foot multi-tenant retail building. This pad was originally intended to be a service station with 3,000 square feet of building pad area for retail sales. Some site improvements along with parking and driveway relocation was necessary. These site modifications result in an added 16 parking spaces.

Pad 2: The proposed use is as an 8,000 square foot restaurant with up to 1,780 square feet for outside dining. The Pad was originally approved for a restaurant with 8,000 square feet of building area with 1,600 square feet of outdoor dining area. CP00-0058 increased the pad building area to 9,050 square feet and deleted the outdoor dining space for each restaurant pad or use and instead allowed for a total of 4,700 square feet of outdoor dining for the entire center. The proposed restaurant will be situated within the previously approved site plan with the exception of minor changes to accommodate service, loading, trash and pedestrian circulation.

Pad 3: The proposed use is as a 9,000 square foot "Ocean Club" restaurant with up to 1,200 square feet for outside dining. The original approval called for a restaurant with 8,000 square feet of building area with 1,600 square feet of outdoor dining area. The proposed restaurant is a contemporary upscale fine dining restaurant. The proposed project will include a Type 47 On-Sale General Eating Place alcoholic beverage license (beer, wine, and distilled spirits), amplified live entertainment and patron dancing in the bar/lounge area. The proposed restaurant will be open seven days a week, operating between the hours of 11:00AM to 2:00AM. The proposed restaurant will be situated within the previously approved pad area with the exception of minor changes to accommodate service, loading, trash and pedestrian circulation. The building will be constructed as a "shell building" with the restaurant owner making the interior tenant improvements.

The original Coastal Development Permit permitted a total of 125,000 square feet of commercial use floor area and 878 parking spaces. The Changed Plan permitted a total of 125,000 square feet of commercial use floor space and an increase in parking spaces to 898 spaces. In addition, construction of the Crystal Cove Promenade in-line buildings approved under PA98-0101 has resulted in a building area, which is slightly less than that building area approved. The net result of this reconciliation is a reduction of the gross floor area for the project of 273 square feet. The adjusted square footage of the in line buildings together with the three pads under this permit gives a total square footage for the center of 124,778 square feet with 908 parking spaces. The current approved total square foot of outdoor dining is 5,400 square feet.

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**II. REFERENCE:** (Authority for Administrative action is given by what ordinance, regulation, etc.) Orange County Zoning Code Section 7-9-150 "Discretionary Permits and Procedures" and regulatory requirements in the Newport Coast PC/LCP.

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**III. ENVIRONMENTAL DOCUMENTATION:**

The proposed project is covered by Final EIR 568, previously certified on May 5, 1998 and Addendum PA980101. Prior to project approval, this EIR and Addendum were found adequate to satisfy the requirements of CEQA by the Director. Appendix A contains the required CEQA Finding.

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**IV. CERTIFICATION:**

I hereby certify that the subject proposal has been Conditionally Approved with modification to previously approved Conditions of Approval of PA98-0101 and current water quality conditions as noted in Appendix B below.

Tim Neely, Director  
RDMD/Planning and Development Services

By: \_\_\_\_\_

John B. Buzas, Manager  
PDS/Current and Advance Planning Services

**WVM**

FOLDER: My Document/Newport Coast/PA04-0032 Staff TIC Promenade

**ATTACHMENTS:**

Appendix A - Findings

Appendix B - Conditions of Approval

**APPEAL PROCEDURE**

Any interested person may appeal the decision of the Director on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$760.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.



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

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6 **FIRE/LIBRARY 2** **PA040032**  
**(PA980101)**

That the project is located within a fee area as that term is defined in Section 7-9-702 and will contribute to the need for a fire station and/or library facility for which a fee is required.

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7 ~~COASTAL DEVELOPMENT PERMIT 1~~ **PA980101**

~~That the development project proposed by the application conforms with the certified Local Coastal Program.~~

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8 ~~COASTAL DEVELOPMENT PERMIT 2~~ **PA980101**

~~That the project conforms with the public access and public recreation policies of the California Coastal Act.~~

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9 ~~COASTAL DEVELOPMENT PERMIT 3~~ **PA980101**

~~That the approval of this application will result in no modification to the requirements of the certified land use plan.~~

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10 **EIR AND ADDENDUM** **PA040032**  
**(PA980101)** (Custom)

The decision-maker has considered Final EIR 568 , previously certified on May 5, 1998 and Addendum PA980101 prior to project approval. Together they are approved for the proposed project based upon the following findings:

- a. Together, these documents are adequate to satisfy the requirements of CEQA by the decision-maker;
- b. The additions, clarifications and/or changes to the original document caused by the Addendum, do not raise new significant issues which were not addressed by the EIR; and

c. The approval of the EIR and Addendum for the proposed project reflect the independent judgment of the Lead Agency.

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~~11~~ **PARKING MODIFICATION 1** **PA980101**

~~That the applicable off street parking requirements are excessive or inappropriate due to the nature of the specific use involved or because of special circumstances applicable to the property.~~

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~~12~~ **PARKING MODIFICATION 2** **PA980101**

~~That the proposed off street parking facilities comply with the intent of Section 7-9-145.1 "Off Street Parking Regulations" of the Orange County Zoning Code.~~

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13 **PARKING AND CIRCULATION** **PA040032**  
**(PA980101)**

That the access, parking and circulation facilities will not result in excess traffic safety hazards.

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14 **SCENIC CORRIDOR** **PA040032**  
**(PA980101)**

That the use proposed, with the conditions of approval, is compatible with the character of the scenic corridor and any specific plans or programs established for a scenic highway.



## Appendix B

### Conditions of Approval

#### PA980101/PA040032

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1	CP	CP	<b>BASIC/ZONING REG</b>	<b>PA040032</b> <b>(PA980101)</b>
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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 of approval of the project regarding any other applicable ordinance, regulation or requirement.

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2	CP	CP	<b>BASIC/TIME LIMIT</b>	<b>PA040032</b> <b>(PA980101)</b>
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This approval is valid for a period of 24 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.

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3	CP	CP	<b>BASIC/PRECISE PLAN</b>	<b>PA040032</b> <b>(PA980101)</b>
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Except as otherwise provided herein, this permit is approved as a precise plan. After any application has been approved, if changes are proposed regarding the location or alteration of any use or structure, a changed plan may be submitted to the Director, PDS, for approval. If the Director, PDS, determines that the proposed change complies with the provisions and the spirit and intent of the 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.

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4	CP	CP	<b>BASIC/COMPLIANCE</b>	<b>PA040032</b>
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**(PA980101)**

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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**5 CP CP NA BASIC/OBLIGATIONS PA040032  
(PA980101)**

Applicant shall defend at his/her sole expense any action brought against the County because of issuance of this permit. Applicant will reimburse the County for any court costs and attorneys fees which the county may be required to pay as a result of such action. The County may, at its sole discretion, participate in the defense of any action, but such participation shall not relieve applicant of his/her obligations under this condition.

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**6 CP CP NA BASIC OBLIGATIONS PA040032  
(PA980101)**

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

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**7 CP CP B SITE PLANS PA980101 (Custom)**

~~Prior to the issuance of building permits for structures on the two restaurant pads (labeled Pad 2 and Pad 3 on the site plan) and the gas station pad (labeled Pad 1 on the site plan), a Site Development Permit shall be submitted for review and approval by the Director.~~

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**8 SG SG G PED-CIRC PA980101 (Custom)**

~~Prior to the issuance of a grading permit, the applicant shall design the internal pedestrian circulation system in a manner meeting the approval of the Manager, Subdivision and Grading Services.~~

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**9 CP CP B SIGN PROGRAM PA980101 (Custom)**

~~All signs are subject to the project's approved sign program and the Newport Coast Community Design and Sign Program. Prior to the issuance of building permits for the two monument signs at the project~~

~~entrance, the Community Design and Sign Program Coastal Development Permit shall be revised to include the two proposed monument signs in a manner meeting the approval of the Manager, Current Planning Services.~~

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~~10 CP CP G~~                      ~~REVISED SITE PLAN~~                      ~~PA980101 (Custom)~~

~~Prior to the issuance of the first grading permit, the applicant shall submit a revised site plan to the Manager, Current Planning for review and approval. Said revised plan shall included the following revisions to the parking layout. The main parking field (that area between the buildings and Pacific Coast Highway) shall be revised to show the parking stall width at nine (9) feet. The parking stalls located behind the building can remain at the width of 8 1/2 feet; and, the applicant shall inform the future tenants that this parking area should be used for employee parking.~~

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11 SG SG RG                      DRAINAGE STUDY                      PA040032  
(PA980101)

Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any grading permits, whichever comes first, the following drainage studies shall be submitted to and approved by the Manager, Subdivision and Grading:

- A. A drainage study of the subdivision including diversions, off-site areas that drain onto and/or through the subdivision, and justification of any diversions; and
  - B. When applicable, a drainage study evidencing that proposed drainage patterns will not overload existing storm drains; and
  - C. Detailed drainage studies indicating how the tract map grading, in conjunction with the drainage conveyance systems including applicable swales, channels, street flows, catch basins, storm drains, and flood water retarding, will allow building pads to be safe from inundation from rainfall runoff which may be expected from all storms up to and including the theoretical 100-year flood
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12 SG SG RG                      DRAINAGE IMPROVEMENTS                      PA040032  
(PA980101)

A. Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any grading permits, whichever comes first, the applicant shall in a manner meeting the approval of the Manager, Subdivision and Grading:

- 1) Design provisions for surface drainage; and
- 2) Design all necessary storm drain facilities extending to a satisfactory point of disposal for the proper control and disposal of storm runoff; and

3) Dedicate the associated easements to the County of Orange, if determined necessary.

B. Prior to the recordation of a subdivision map (except maps for financing and conveyance purposes only) or prior to the issuance of any certificates of use and occupancy, whichever occurs first, said improvements shall be constructed in a manner meeting the approval of the Manager, Construction.

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13 F F GBU

**FIRE HYDRANTS**

**PA040032  
(PA980101)**

A. Prior to the issuance of any grading permit, the applicant shall submit a fire hydrant location plan for the review and approval of the Fire Chief.

B. Prior to the issuance of a building permit, the applicant shall submit to the Fire Chief evidence of the on-site fire hydrant system and indicate whether it is public or private. If the system is private, the system shall be reviewed and approved by the Fire Chief prior to issuance of the building permit. Provisions shall be made by the applicant for the repair and maintenance of the system, in a manner meeting the approval of the Fire Chief.

C. Prior to the issuance of any certificate of use and occupancy, all fire hydrants shall have a blue reflective pavement marker indicating the fire hydrant location on the street or drive per the Orange County Fire Authority Standard as approved by the Fire Chief. These markers are to be maintained in good condition by the property owner.

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14 F F B

**WATER AVAILABILITY**

**PA040032  
(PA980101)**

Prior to the issuance of a building permit, the applicant shall provide evidence of adequate fire flow. The Orange County Fire Authority Water Availability for Fire Protection form shall be signed by the applicable water district and submitted for approval to the Orange County Fire Authority. If sufficient water to meet fire flow requirements is not available, an automatic fire extinguishing system may be required in each structure affected by the insufficient fire flow.

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15 F F RBU

**AUTOMATIC FIRE SPRINKLER**

**PA040032  
(PA980101)**

A. Prior to the issuance of a building permit, the applicant shall submit plans for any required automatic fire sprinkler system in any structure to the OCFA for review and approval.

B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

**16 F F BU STREET MARKINGS PA040032  
(PA980101)**

A. Prior to the issuance of a building permit, the applicant shall submit plans and obtain approval from the Fire Chief for fire lanes on required fire access roads less than 36 feet in width. The plans shall indicate the locations of red curbing and signage. A drawing of the proposed signage with the height, stroke and color of lettering and the contrasting background color shall be submitted to and approved by the Fire Chief.

B. Prior to issuance of any certificate of use and occupancy, the fire lanes shall be installed in accordance with the approved fire lane plan in a manner meeting the approval of the Fire Chief. The CC&R's, or other approved documents, shall contain a fire lane map and provisions which prohibit parking in the fire lanes. The method of enforcement shall be documented.

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**17 F F B COMBUSTIBLE CONSTRUCTION LETTER PA040032  
(PA980101)**

Prior to the issuance of a building permit for combustible construction, the builder shall submit a letter to the Fire Chief on company letterhead stating that water for fire-fighting purposes and the all weather fire protection access roads shall be in place and operational before any combustible material is placed on-site.

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**18 F F B BUILDING USE LETTER PA040032  
(PA980101)**

Prior to the issuance of a building permit, the applicant shall submit a detailed letter of intended use for each building on-site to the Fire Chief for review and approval.

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**19 F F SB ARCHITECTURAL BUILDING PLANS PA040032  
(PA980101)**

Prior to the issuance of a building permit, the applicant shall submit plans for the review and approval of the Fire Chief as indicated on the OCFA Plan Submittal Criteria form. Call the OCFA at (714) 744-0403 for a copy the Fire Safety Site/Architectural Notes to be placed on the plans prior to submittal.

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**20 F F BU FIRE SUPPRESSION SYSTEM PA040032  
(PA980101)**

A. Prior to the issuance of a building permit for the installation of commercial-type cooking equipment, plans for an approved fire-suppression system for the protection of commercial-type cooking equipment shall be submitted to the Fire Chief for review and approval.

B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

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21	F	F	BU	<b>FIRE ALARM SYSTEM</b>	<b>PA040032</b> <b>(PA980101)</b>
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A. Prior to the issuance of a building permit, plans for the fire alarm system shall be submitted to the Fire Chief for review and approval.

B. Prior to the issuance of a certificate of use and occupancy, this system shall be operational in a manner meeting the approval of the Fire Chief.

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22	SG	SG	G	<b>GEOLOGY REPORT</b>	<b>PA040032</b> <b>(PA980101)</b>
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Prior to the issuance of a grading permit, the applicant shall submit a geotechnical report to the Manager, Subdivision and Grading, for approval. The report shall include the information and be in a form as required by the Grading Manual.

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23	SG	SG	G	<b>GRADING DEVIATION</b>	<b>PA040032</b> <b>(PA980101)</b>
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Prior to the issuance of any grading permits, if the applicant submits a grading plan and the Manager, Subdivision and Grading, determines that it shows a significant deviation from the grading on the approved tentative tract map, specifically with regard to slope heights, slope ratios, and pad elevations and configuration, the plan shall be reviewed by the Subdivision Committee for a finding of substantial conformance. Failure to achieve such a finding will require processing a revised tentative map; or, if a final map has been recorded, a new tentative map or a site development permit application per Orange County Zoning Code Section 7-9-139 and 7-9-150. Additionally, a new environmental assessment and determination is required.

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24	SG	SG/BI	GU	<b>PRIVATE LANDSCAPING</b>	<b>PA040032</b> <b>(PA980101)</b>
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A. Prior to the issuance of precise grading permits, the applicant shall prepare a detailed landscape plan

for privately maintained areas. The plan shall be certified by a licensed landscape architect or a licensed landscape contractor, as required, as taking into account approved preliminary landscape plan (if any), County Standard Plans, adopted planned community regulations, scenic corridor and specific plan requirements, Grading and Excavation Code erosion control requirements, Subdivision Code, Zoning Code, and conditions of approval, Water Conservation Measures contained in Board Resolution 90-487 (Water Conservation Measures) and Board Resolution 90-1341 (Water Conservation Implementation Plan). Said plan shall be reviewed and approved by the Manager, Subdivision and Grading.

B. Prior to the issuance of certificates of use and occupancy, 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. The applicant shall furnish said certification, including an irrigation management report for each landscape irrigation system, and any other implementation report determined applicable, to the Manager, Building Inspection, prior to the issuance of any certificates of use and occupancy.

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<b>25 EP BP B</b>	<b>LIGHT AND GLARE</b>	<b>PA040032 (PA980101)</b>
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Prior to issuance of any building permit, the applicant shall demonstrate that all exterior lighting has been designed and located so that all direct rays are confined to the property in a manner meeting the approval of the Manager, Building Permits.

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<b>26 BP BP BG</b>	<b>NOISE GENERATING</b>	<b>PA040032 (PA980101)</b>
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Noise levels generated by this project during its operation shall be controlled in compliance with Orange County Codified Ordinance, Division 6 (Noise Control). Prior to the issuance of any building or grading permits, the applicant shall submit an acoustical analysis report and appropriate plans to the Manager, Building Permits, for review and approval. The report shall be prepared under the supervision of a County-certified Acoustical Consultant, describing the noise generation potential and noise mitigation measures, if needed, which shall be included in the plans and specifications of the project.

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<b>27 BP BP G</b>	<b>CONSTRUCTION NOISE</b>	<b>PA040032 (PA980101)</b>
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A. Prior to the issuance of any grading permits, the project proponent shall produce evidence acceptable to the Manager, Building Permits, that:

- (1) All construction vehicles or equipment, fixed or mobile, operated within 1,000' of a dwelling shall be equipped with properly operating and maintained mufflers.
- (2) All operations shall comply with Orange County Codified Ordinance Division 6 (Noise



~~Prior to issuance of any grading permits, the applicant shall submit evidence to the Manager, Subdivision and Grading, that the applicant has obtained coverage under the NPDES statewide General Stormwater Permit from the State Water Resources Control Board.~~

### 32 **BI BI RGB WATER QUALITY MANAGEMENT PLAN PA040032 (Custom)**

Prior to the recordation of any final subdivision map (except those maps for financing or conveyance purposes only) or the issuance of any grading or building permit, the applicant shall submit for review and approval by the Manager, Inspection Services Division, a Water Quality Management Plan (WQMP) specifically identifying Best Management Practices (BMPs) that will be used onsite to control predictable pollutant runoff. This WQMP shall identify, at a minimum, the routine structural and non-structural measures specified in the current Drainage Area Management Plan (DAMP). The WQMP must also:

Address Site Design BMPs (as applicable) such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or “zero discharge” areas, and conserving natural areas; and

Incorporate the applicable Routine Source Control BMPs as defined in the DAMP

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### 33 **BI BI U COMPLIANCE WITH THE WQMP PA040032**

Prior to the issuance of a certificate of use and occupancy, the applicant shall demonstrate compliance with the WQMP in a manner meeting the satisfaction of the Manager, Inspection Services Division, including:

- Demonstrate that all structural Best Management Practices (BMPs) described in the project’s 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 for attachment to the WQMP;
- Demonstrate that copies of the project’s approved WQMP (with attached O&M Plan) are available for each of the incoming occupants;
- Agree to pay for a Special Investigation from the County of Orange for a date (12) twelve 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; and
- Demonstrate that the applicant has agreed to and recorded one of the following: 1) the

