



## CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator for the week ending May 17, 2024.

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### ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS MAY 16, 2024

- Item 1: Balthasar Residence Coastal Development Permit (PA2024-0027)  
Site Address: 239 Via Lido Soud
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| Action: Approved by Resolution No. ZA2024-028 | Council District | 1 |
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- Item 2: Doggie Daycare...And More, Inc. Minor Use Permit (PA2023-0248)  
Site Address: 1555, 1557 & 1559 Placentia Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2024-029 | Council District | 2 |
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- Item 3: Whitaker Residence Coastal Development Permit (PA2024-0043)  
Site Address: 55 Saratoga
- |   |                  |   |
|---|------------------|---|
| Action: Approved by Resolution No. ZA2024-030 | Council District | 4 |
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- Item 4: 506 Capital Group Residential Condominiums Coastal Development Permit and Tentative Parcel Map (PA2023-0201)  
Site Address: 506 & 506 ½ Avocado Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2024-031 | Council District | 6 |
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- Item 5: Porteous Residential Condominiums Tentative Parcel Map and Coastal Development Permit (PA2024-0012)  
Site Address: 516 & 516 ½ Acacia Avenue
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2024-032 | Council District | 6 |
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**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

## RESOLUTION NO. ZA2024-028

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE LOCATED AT 239 VIA LIDO SOUD (PA2024-0027)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Chris Brandon, concerning property located at 239 Via Lido Soud, requesting approval of a coastal development permit.
2. The lot at 239 Via Lido Soud is legally described as Lot 900 Tract 907 except the southeasterly 35-feet and the 40-foot by 90-foot section of abandoned Via Cordova except the northwesterly 10-feet of Tract 907.
3. The applicant proposes a coastal development permit to demolish an existing single-family residence and construct a new 3,684-square-foot, single-family residence including an attached 561-square-foot, two-car garage. The structure would reach a height of approximately 24 feet and includes two stories. The existing bulkhead is generally in good condition and will remain in place with minor alterations. The project also includes additional appurtenances such as site walls, fences, patios, landscaping, and drainage devices. The design complies with all development standards including height, setbacks, and floor area limit, and no deviations are requested.
4. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached 10.0-19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on May 16, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

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

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Section 15303 because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition, construction, or conversion of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of one single-family residence and the construction of a new 3,684-square-foot, single-family residence including an attached 561-square-foot, two-car garage and therefore qualifies within this exemption.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

By Section 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the Newport Beach Municipal Code, the following findings, and facts in support of such findings are set forth:

#### Finding:

- A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 4,408 square feet and the proposed floor area is 3,685 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 4 feet along the front property line abutting Via Lido Soud, 3 feet along each side property line, and 10 feet along the front property line abutting the Bay.
  - c. The highest guardrail is less than 24 feet from the established grade (11.69 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated January 16, 2024, for the project. The current maximum bay water elevation is 7.7 feet (NAVD88), and the existing bulkhead is at 11.69 feet (NAVD88). The report analyzes future sea level rise scenarios assuming a 3.0-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.90 feet (NAVD88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The existing seawall at 11.69 feet (NAVD88) reinforced with an adaptability elevation of 14.4 feet NAVD88 and is above the minimum required 10.9 feet (NAVD88). Flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that once the bulkhead is reinforced the proposed project will be reasonably safe from flooding hazards for the next 75 years.
4. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to reinforce the bulkhead to an adaptability elevation of 14.4 feet (NAVD 88). PMA Consulting, Inc. has confirmed the bulkhead can be raised up to 14.4 feet NAVD88 if needed and in compliance with the updated guidelines.
5. The finished floor elevation of the proposed single-family residence is 12 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
6. Under NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to agree with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). This requirement is included as a condition of approval that will need to be satisfied before the final building permit inspection, respectively.
7. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits, respectively.
8. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved before the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC before building permit issuance.

9. The property is located adjacent to coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials.
10. Under Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75% of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Thomas M. Ruiz dated, January 24, 2024. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs.
11. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
12. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is approximately 880 feet away on Via Lido bridge and although the site is visible from the bridge it is amongst a row of similarly developed residences, each with docks/boats on the water. The residences do not impact the view of the Bay from the bridge. As currently developed, the existing property and other residences along the bay and Via Lido Soud are located within the view shed of the bridge and bay. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
13. The front of the residence, which is visible from the bay, provides additional setbacks for the first floor and the living areas on the second floor where the required setback is 10 feet. The proposed residence includes two stories and reaches a maximum height of 24 feet, where three stories and a maximum height of 29 feet is allowed per the NBMC. Lastly, the design includes modulation of volume throughout the structure and low front site walls that prevent the appearance of the site being walled off from the bay. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

Finding:

- B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:


1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a standard R-1 lot with a new single-family residence. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical access to the bay and beach is available approximately 620 feet south of the property at a park on the Bay and 510 feet north at the entrance to Lido Isle. Lateral access is available along the beach in front of the park and extending south. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit, subject to the conditions outlined in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director by the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF MAY, 2024.**

  
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Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

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).
2. *Before the final building permits, the existing seawall shall be reinforced and capable to be raised up to 14.4 feet (NAVD 88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities*
3. *The existing seawall shall be reinforced by the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting, Inc. dated January 16, 2024.*
4. Before the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. *Before the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 the development. This letter shall be scanned into the plan set before building permit issuance.*
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
7. This Coastal Development Permit does not authorize any development seaward of the private property.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree

trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
  10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
  11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
  12. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
  13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  14. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
  15. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.



16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
17. *Before the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
18. *Before the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
19. *Before issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
20. *Before the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
21. *Before issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
22. All landscape materials and irrigation systems shall be maintained by 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.
23. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulation) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Sundays, or Holidays.
24. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
	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

25. Before the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
26. 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 the current property owner or agent.
27. This Coastal Development Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
28. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 Balthasar Residence including but not limited to, Coastal Development Permit (PA2024-0027). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney’s fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all the City’s costs, attorneys’ fees, and damages, which the City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

## RESOLUTION NO. ZA2024-029

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A MINOR USE PERMIT FOR AN ANIMAL BOARDING FACILITY LOCATED AT 1555, 1557, AND 1559 PLACENTIA AVENUE (PA2023-0248).**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rosanne Faul (Applicant), concerning the property located at 1555, 1557, and 1559 Placentia Avenue, and legally described as Lot 1 and a portion of Lot 2 of Tract 3145 (Property) requesting approval of a minor use permit.
2. The Applicant proposes to merge three vacant commercial suites for a 6,600-square-foot animal daycare and grooming establishment within an existing commercial building. The Applicant will provide overnight boarding of animals with staff on-site at all times. The establishment also provides ancillary animal grooming services. All animal boarding and grooming activities are proposed to remain within the interior of the building (Project).
3. The Property is located within the Industrial (IG) Zoning District and the General Industrial (IG) General Plan Land Use Element category. The Industrial Zoning District is intended to provide a wide range of moderate to low intensity industrial uses and limited accessory commercial and office uses.
4. The Property is not located within the coastal zone.
5. A public hearing was held on May 16, 2024, online via Zoom. 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 Zoning Administrator at this hearing.

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

1. This Project is exempt from the California Environmental Quality Act (CEQA) under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Class 3 exemption authorizes the conversion of up to four commercial buildings from one use to another, not exceeding 10,000 square feet in floor area where only minor modifications are made to the exterior of the structure. The Project is for an animal boarding and grooming establishment within an existing 6,600 square foot commercial building, with minor modifications to the exterior of the building. Therefore, the Class 3 exemption is applicable.

3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Property does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

#### Facts in Support of Finding:

1. The Land Use Element of the General Plan designated this Property as General Industrial (IG), which is intended to provide a wide range of moderate to low intensity industrial uses, and limited ancillary commercial and office uses. The Project is an indoor-only animal boarding and grooming establishment which is an ancillary commercial use and is therefore consistent with the General Plan land use designation.
2. The Property is not part of a specific plan area.

#### Finding:

- B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

#### Facts in Support of Finding:

1. The Property is located within the Industrial (IG) Zoning District. The Industrial District is intended to provide for areas appropriate for a wide range of moderate to low intensity industrial uses and limited accessory commercial and office uses. Table 2-12 of NBMC Section 20.24.020 (Industrial Zoning District Land Uses and Permit Requirements) allows an animal boarding use subject to approval of a minor use permit and allows an animal grooming use by right. An animal boarding use is defined as an establishment where more than three dogs over the age of four months, three cats over the age of four months, or three other animals are treated, conditioned, boarded, raised, or offered for sale for any form of compensation including donations by a person or entity. The Project would therefore be categorized as an animal boarding use by the NBMC and require approval of a minor use permit to allow operation.

2. NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires an off-street parking rate of one space per 400 square feet of gross floor area for animal boarding and grooming land uses. The existing building has 6,600 square feet of gross floor area, which requires 17 parking spaces (6,600 sq. ft. / 400 sq. ft = 16.5 = 17 parking spaces). The Property includes an on-site surface parking lot which is proposed to be striped with 17 parking spaces. Therefore, the Project complies with the minimum parking required by the NBMC.
3. As conditioned, the Project shall comply with NBMC Chapter 7.35 (Regulation of Kennels), which requires the operator to obtain an Operator's Permit from the Police Department. The maximum number of animals allowed by an Operator's Permit is 59 at any given time. The Operator's Permit will ensure the proper care, health, and safety of animals is maintained by the Operator.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The Project is compatible with the existing and allowed uses in the area, which consists of light industrial uses along Production Place such as metal, plastic, and packaging facilities. Additionally, the Property is near multi-residential developments such as the Ebb Tide residences to the east across Placentia Avenue and the Newport Villa Apartments to the south.
2. The Project includes an interior remodel and alteration of a vacant commercial building with three existing suites. Each existing suite is 2,200 square feet in gross floor area and are proposed to be combined into one, 6,600-square-foot suite for the Project. There will not be an increase in size of the existing building.
3. The Project will be conditioned to provide adequate trash storage facilities in an enclosed area to prevent any odor or related issues for the adjacent properties.
4. The Project complies with the off-street parking requirement of 17 spaces. Therefore, there is not an anticipated impact or increase in demand for on-street parking on Production Place or other nearby streets.
5. As conditioned, the allowed drop off and pick up of animals will be between the hours of 6:30 a.m. and 7:00 p.m. Monday to Friday and 7:00 a.m. to 7:00 p.m. Saturday and Sunday and with the overnight boarding of animals allowed daily. These hours of operation will minimize disturbances to the nearby residential uses.
6. The Public Works Department, Building Division, Fire Department, and Police Department have reviewed the application. The Project is required to obtain all applicable

permits from the City Building, Fire, and Police Departments and must comply with the most recent, City-adopted version of the California Building Code.

Finding:

- D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The Property is 19,204 square feet in area, rectangular in shape, and located near industrial and residential uses. The Property has vehicular access along Placentia Avenue and Production Place. Since the parking lot is one-way for vehicles, patrons are to enter from Production Place and exit onto Placentia Avenue. Pedestrian access is also available from Placentia Avenue and Production Place.
2. The on-site parking lot on the rear of the Property will provide the drop-off and pick up area for the patrons of this establishment. This area is reasonably screened from the Placentia Avenue public right-of way. A wall approximately eight feet tall currently exists between the Property and the adjacent Newport Villa Apartments which provides visual screening and additional sound attenuation.
3. The improvements to the Property will comply with all Building, Public Works, and Fire Codes. The Project shall comply with all applicable ordinances of the City and all conditions of approval.

Finding:

- E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The Project will add an animal service business to the neighborhood and occupy a corner building that is currently vacant.
2. The Project includes limited hours and is conditioned to limit all animal boarding and grooming activities within the building. The Project meets the parking requirements and there is not an anticipated impact or increase in demand for on-street parking in this area.
3. The existing building on the Property is constructed of 6-inch solid concrete walls with an insulated roof which will aid in the attenuation of noise to the surrounding neighborhood. The Applicant is proposing to construct an interior water-proofed soffit for

additional soundproofing. The Project has been conditioned to keep all doors and windows closed to reduce the potential of noise disturbances to the surrounding community. The Project has also been conditioned to provide an acoustic analysis and implement any additional sound attenuation measures if deemed necessary by the Community Development Director.

4. The Project has been conditioned to provide adequate trash storage facilities in an enclosed area to prevent odor or related issues for the adjacent properties.
5. The Project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the Property and adjacent properties during business hours, if directly related to the patrons of the establishment. Based on the NBMC requirements and the proposed conditions of approval, the Project will not result in a detriment to the surrounding community.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction and Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit filed as PA2023-0248 subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF MAY 2024.**



Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. The Project 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).
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. A material violation of any of those laws in connection with the use may be caused the revocation of this Minor Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to the Property or improvements in the vicinity or if the Property is operated or maintained to constitute a public nuisance.
5. Any change in operational characteristics, expansion in the area, or other modification to the approved plans shall require review by the Planning Division. An amendment to this Minor Use Permit or the processing of a new minor use permit may be required.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
7. All Project signs shall be in conformance with the provisions of Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code.
8. The screening of roof-mounted and ground-mounted mechanical equipment shall be required in all zoning districts at the time of new installation or replacement in conformance with Section 20.30.020 (Buffering and Screening) of the NBMC.
9. 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.
10. The Property shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources.



The Director may order the dimming of light sources or other remediation upon finding that the Property is excessively illuminated.

11. 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.
12. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

Location	Between the hours of 7:00 AM and 10:00 PM		Between the hours of 10:00 PM and 7:00 AM	
	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

13. 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.
14. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise 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. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from the view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
16. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
17. The exterior of the business shall be always maintained free of litter and graffiti. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

18. Storage outside of the building in the front or at the rear of the Property shall be prohibited, except for the required trash container enclosure.
19. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Use Permit.
21. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
22. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
23. *The allowed hours of operations for drop off and pick up of animals for the establishment shall be limited to the hours of 6:30 a.m. to 7:00 p.m. Monday to Friday and 7:00 a.m. to 7:00 p.m. Saturday and Sunday. The overnight boarding of animals shall be allowed daily.*
24. *The number of animals at the premises shall be limited to 59 at any given time.*
25. *All operations associated with the use shall remain within the interior of the building, except for the drop-off and pick-up of animals.*
26. *The patrons and their animals shall not loiter outside the building (i.e., parking lot) to reduce noise impact to the surrounding neighborhood. The operator shall ensure that animals on the Property do not create nuisances to the surrounding neighborhood.*
27. *Prior to issuance of certificate of occupancy, the on-site parking lot shall be striped with a minimum of 17 parking spaces consistent with the approved plan.*
28. *All employees of this establishment shall park in the on-site parking lot at all times.*
29. *The Applicant shall keep all doors and windows closed at all times, except when patrons enter and exit the establishment.*
30. *Once the use is operational, the Community Development Director may require the applicant to provide an acoustical analysis and implement any additional sound attenuation measures if necessary.*

31. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 Doggie Daycare Boarding and Grooming including, but not limited to, Minor Use Permit (PA2023-0248). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions outlined in this condition. The Applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

### **Building Division**

32. The Applicant shall obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
33. The Applicant shall employ the following best available control measures (BACMs) to reduce construction-related air quality impacts:

### **Public Works Department**

34. The parking layout shall comply with City Standard 105.
35. The traffic directional pavement markings and signage shall comply with the latest Caltrans standard plans and California MUTCD.
36. Driveway approach on Production Place shall be reconstructed to align with the one-way drive aisle.

### **Police Department**

37. Prior to the building permit final, the Applicant shall obtain approval of a Kennel Operator's Permit from the Chief of Police in compliance with Municipal Code Chapter 7.35 (Regulation of Kennels).

## RESOLUTION NO. ZA2024-030

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A COASTAL DEVELOPMENT PERMIT TO REMOVE AN EXISTING MANUFACTURED HOME AND INSTALL A NEW SINGLE-STORY, MANUFACTURED HOME LOCATED AT 55 SARATOGA (PA2024-0043).**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steve Almquist (Applicant) on behalf of Richard Whitaker (Manufactured Home Owner), with respect to property located at 55 Saratoga, legally described as Parcel 2 of Resubdivision No. 0995 (Parcel Map No. 93-111), requesting approval of a coastal development permit.
2. The Applicant proposes the removal of an existing single-story manufactured home and the installation of a new single-story, manufactured home. The development also includes a driveway, patio, walkways, and entry stairs. The development complies with all applicable Newport Beach Municipal Code standards and no deviations are requested.
3. The subject property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Bayside Village Mobile Home Park (PC1) Zoning District.
4. The subject site is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential (10.0 – 19.9 DU/AC (RM-C)) and it is located within the Bayside Village Mobile Home Park (PC1) Coastal Zone District.
5. A public hearing was held on May 16, 2024, online via Zoom. A notice of the 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 Zoning Administrator at this hearing.

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

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the

removal of an existing single-family manufactured home and installation of a new single-family manufactured home.

### SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 21.52.015(F) (Coastal Development Permits - Findings and Decision), the following findings and facts in support of such findings are set forth:

#### Finding:

A. *Conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The proposed development complies with applicable development standards identified by the PC1 Development Plan and the proposed design is in substantial conformance with the approved site plan.
  - a. The project is within the confines of the manufactured home site lines.
  - b. The project includes a parking area for one vehicle, complying with the minimum parking requirement per site.
2. The Bayside Village Mobile Home Park is predominantly developed with single- and two-story, mobile/manufactured homes. The proposed design, bulk, and scale of the development is consistent with the existing pattern of development and expected future development consistent with applicable development standards.
3. The Bayside Village Mobile Home Park is comprised of Parcel 1 (south) and Parcel 2 (north) of Parcel Map No. 93-111. The project site is located within the north parcel, surrounded by other homes, and is more than 150 feet from Newport Bay. It is separated from the bay by one row of manufactured home sites and by Bayfront, a private road. The project site is at an approximate elevation of 15 feet based on the North American Vertical Datum of 1988 (NAVD 88).
4. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
5. The building codes for the construction and installation of a manufactured home are contained within the California Health and Safety Code. The State of California Department of Housing and Community Development (HCD) issues all construction permits. The applicant has provided evidence of approval from the State.

Finding:

- B. *Conforms to the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. the existing residential development neither provides nor inhibits public coastal access. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family manufactured home within an existing mobile/manufactured home park with a new single-family manufactured home. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreational opportunities.
2. Bayside Drive bisects the northern and southern parcels of the Bayside Village Mobile Home Park and provides access to the Newport Dunes, which houses several coastal recreational opportunities for the public's use. The project would not impede access along this route.
3. The mobile/manufactured home park is approximately 175 feet from Coast Highway, a public coastal view road. It is separated from the public right-of-way by an existing perimeter fence that is approximately six feet tall. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family manufactured home with a new single-family manufactured home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone or result in significant adverse impacts on public views.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit (PA2024-0043), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF MAY, 2024.**



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Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

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).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or results in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands, or their buffers.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
4. *Before the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 the development. This letter shall be scanned into the plan set before building permit issuance.*
5. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
6. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
7. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
8. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.



9. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
10. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
11. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
12. 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.
13. 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 the current property owner or agent.
14. This Coastal Development Permit No. PA2024-0043 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions) unless an extension is otherwise granted.
15. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 **Whitaker Residence including, but not limited to, Coastal Development Permit (PA2024-0043)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages, which the 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.

## RESOLUTION NO. ZA2024-031

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM PROJECT LOCATED AT 506 AND 506 ½ AVOCADO AVENUE (PA2023-0201)**

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Betty Gulezyan of I D L Home Inc. (Applicant), concerning property located at 506 and 506 ½ Avocado Avenue, which is legally described as Lot 31 of Tract No. 682 (Property).
2. The Applicant requests a tentative parcel map and coastal development permit for two-unit condominium purposes. The property owner has partially demolished the existing residential duplex and proposes to construct a new two-unit residential condominium building. No waivers of the Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The tentative parcel map would allow each unit to be sold individually. A coastal development permit (CDP) is required because the project site is located within the coastal zone.
3. The Property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (20.0-29.9 DU/AC) (RT-D) and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
5. A public hearing was held on May 16, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by the Zoning Administrator 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 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the

parcel does not have an average slope greater than 20%. The Project is for a two-unit condominium subdivision that will conform to all development standards and is therefore consistent with and eligible for the Class 15 Exemption.

### SECTION 3. REQUIRED FINDINGS.

#### ***Tentative Parcel Map***

In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code, the following findings, and facts in support of such findings, are set forth:

#### Finding:

- A. *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 tentative parcel map is for two-unit condominium purposes. The property owner has partially demolished the existing residential duplex and proposes to construct a new two-unit residential condominium building. The condominium map will allow for the separate sale of each unit in the future. The proposed subdivision and improvements are consistent with density of the R-2 Zoning District and the Two Unit Residential (RT) General Plan Land Use designation.
2. The Property is not located within a specific plan area.

#### Finding:

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

#### Facts in Support of Finding:

1. The Property is physically suitable for attached residential dwellings, as it is regular in shape and size with access to both Avocado Avenue and the alley in the rear. The Property was recently developed with a residential duplex that has now been partially demolished and will be replaced with an attached, two-unit residential condominium.
2. The Property is accessible by pedestrians from Avocado Avenue at the front property line and from the alley abutting the rear property line. Vehicular access is available from the alley.
3. The Property is adequately served by existing utilities, including electrical, water, and sewer. Per Conditions of Approval Nos. 16, 18, and 20 separate utility connections shall be required for each condominium unit including fire sprinkler lines.

4. There is no proposed change in density. The Property has been developed with two residential units and is being redeveloped with two new residential units, resulting in no net change of residential dwelling units.

Finding:

- C. *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 or 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 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 Property is located within a developed residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines.

Finding:

- D. *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 tentative parcel map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the Applicant per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. The Project shall comply with all ordinances of the City and all Conditions of Approval.
2. The Project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Avocado Avenue frontage and alley, as needed. Existing improvements (pavers) within the Avocado Avenue parkway will be removed and replaced with new turf or drought tolerant landscaping. A new 36" box street tree shall be planted within this parkway along the Avocado Avenue frontage. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code.

Finding:

- E. *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 use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by the 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.*

Fact in Support of Finding:

1. The Public Works Department has reviewed the proposed tentative parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of Property within the proposed development because no public easements are located on the Property.

Finding:

- F. *The subject to the detailed 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 the 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 Property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The Property is developed for residential use and lies in the R-2 Zoning District, which permits residential uses.

Finding:

- G. *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. The 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.

2. The Project is not located within a specific plan area.

Finding:

- H. Solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The tentative parcel map and any future improvements are subject to Title 24 of the California Code of Regulations (the California Building Code) which 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:

- I. 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 proposed two-unit residential condominium project is consistent with the R-2 Zoning District, which allows up to two (2) residential units on the Property. Therefore, the tentative parcel map for residential condominium purposes will not affect the City in meeting its regional housing needs.

Finding:

- J. 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.*

Fact in Support of Finding:

1. The Project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. 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 (3) of the Coastal Act.*

Fact in Support of Finding:

1. The Property is located within the coastal zone; therefore a CDP is required in conjunction with the proposed tentative parcel map. The project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter 3 of the Coastal Act. The Facts in Support of Findings L and M for the coastal development permit (below) are hereby incorporated by reference.

*Coastal Development Permit*

In accordance with Section 21.52.015 (F) (Coastal Development Permits, Findings and Decision) of the NBMC, the following findings, and facts in support of such findings, are set forth:

Finding:

- L. Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The Project is for a tentative parcel map for two-unit residential condominium purposes. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
2. The neighborhood is predominantly developed with two-story, residential buildings. The proposed subdivision, which will allow for a two-unit residential condominium, is consistent with the existing neighborhood pattern of development.
3. The Property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies.
4. The tentative parcel map is for a property that is over 1,000 feet from the bay and is not near any natural landforms or environmentally sensitive areas.

Finding:

- M. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the Project proposes a two-unit residential condominium map on a property that was recently developed with a residential duplex. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, future site development shall be required to comply with applicable development standards sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The tentative parcel map is for a property that is over 1,000 feet from the bay and the approval of the map will not affect public recreation, access, or views. There are several streets and blocks of residential properties between the subject property and the bay.

## SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Tentative Parcel Map and Coastal Development Permit (PA2023-0201), subject to the conditions outlined in Exhibit "A" which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Program [LCP] Implementation Plan) and Title 19 (Subdivisions) of the Newport Beach Municipal Code. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF MAY 2024**

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Benjamin M. Zueba, AICP, Zoning Administrator



## EXHIBIT "A"

### CONDITIONS OF APPROVAL

#### **Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. Approval of this project does not constitute approval or implied approval for any future property development permits, including but not limited to demolition permits, coastal development permits, grading permits, or building permits.
3. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this approval.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) and Title 21 (Local Coastal Implementation Plan) of the NBMC.
5. 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 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 506 Capital Group LLC. Condominiums including, but not limited to **Tentative Parcel Map and Coastal Development Permit (PA2023-0201)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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 the City's costs, attorneys' fees, and damages, which the 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 Department**

6. Prior to the final inspection of the building permit for new construction, a Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic 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, Subarticle 18. The Map to

be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.

7. Prior to recordation of the parcel 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 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 construction project.
8. After the recordation of the Parcel Map and prior to the building permit final, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this description change permit is final.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. An encroachment permit is required for all work activities within the public right-of-way.
11. *All damaged sidewalk panels, curb, gutter, sidewalk, and street along Avocado Avenue and any damaged concrete panels along the alley frontage shall be reconstructed as determined by the Public Works Department.*
12. Prior to the recordation of the parcel map, all existing overhead utilities shall be undergrounded.
13. *Remove the brick pavers from the Avocado Avenue parkway and install new turf or drought tolerant landscaping.*
14. *A new 36" box street tree shall be planted within the parkway along the Avocado Avenue frontage.*
15. *All improvements shall comply with the City's sight distance requirement per City Standard 110-L.*
16. *Each unit shall be served by its individual water service/meter and sewer lateral/cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.*
17. *In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.*

**Building Division**

18. Prior to the recordation of the parcel map, separate utilities shall be provided for each unit, including water, electrical and gas.

**Fire Department**

19. A NFPA 13D fire sprinkler system shall be required for the Project.
20. Each unit shall have their own dedicated water meter for the fire sprinkler system.

## RESOLUTION NO. ZA2024-032

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A TWO-UNIT RESIDENTIAL CONDOMINIUM LOCATED AT 516 AND 516 ½ ACACIA AVENUE (PA2024-0012)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Amber Miedema (Applicant), concerning property located at 516 and 516 ½ Acacia Avenue, legally described as Lot 20 in Block 529 of the Corona Del Mar Tract (Property), requesting approval of a tentative parcel map and coastal development permit.
2. The Applicant requests a tentative parcel map and coastal development permit (CDP) for two-unit condominium purposes. The property owner has demolished the existing residential duplex and proposes to construct a new two-unit residential condominium building. No waivers of Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC) are proposed. The tentative parcel map would allow each unit to be sold individually. A CDP is required because the Property is located within the coastal zone.
3. The Property is designated RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two Unit Residential (20.0 - 29.9 DU/AC)) and it is located within the R-2 (Two-Unit Residential) Coastal Zoning District.
5. A public hearing was held on May 16, 2024, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the NBMC. Evidence, both written and oral, was presented to and considered by, the Zoning Administrator 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 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into 4 or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have an average slope greater than 20. The Project is for the separate sale of two-unit

condominiums that will conform to all development standards and is therefore consistent with and eligible for the Class 15 Exemption.

### SECTION 3. REQUIRED FINDINGS.

#### ***Tentative Parcel Map***

In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the Newport Beach Municipal Code (NBMC), the following findings, and facts in support of such findings, are set forth:

#### Finding:

- A. *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 Project is for two-unit condominium purposes. The property owner has demolished the existing residential duplex and proposes to construct a new two-unit residential condominium building. The parcel map will allow for the separate sale of each unit in the future. The proposed subdivision and improvements are consistent with density of the R-2 (Two-Unit Residential) Zoning District and the RT (Two Unit Residential) General Plan Land Use designation.
2. The Property is not located within a specific plan area.

#### Finding:

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

#### Fact in Support of Finding:

1. The Property is physically suitable for attached residential dwellings, as it is regular in shape and size with access to both Acacia Avenue and the alley in the rear. The Property is currently developed with a residential duplex which the owner proposes to demolish and redevelop with an attached, two-unit residential condominium.
2. The Property is accessible by pedestrians from Acacia Avenue at the front property line and from the alley abutting the rear property line. Vehicular access is available from the alley.
3. The Property is adequately served by existing utilities, including electrical, water, and sewer. Per Conditions of Approval Nos. 15, 20, and 21, separate utility connections shall be required for each condominium unit including fire sprinkler lines.

4. There is no proposed change in density. The Property is currently developed with two residential units and will be redeveloped with two residential units, resulting in no net change of residential dwelling units.

Finding:

- C. *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 or 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 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 Property is located within a developed residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This Project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines.

Finding:

- D. *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 Project is for residential condominium purposes. All improvements associated with the Project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the Applicant per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. The Project shall comply with all ordinances of the City and all Conditions of Approval.
2. The Project includes conditions of approval requiring public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Acacia Avenue frontage and along the alley frontages as needed. Any existing private improvements within the public right of way will be removed, and installation of new turf or drought tolerant landscaping throughout the entire Acacia Avenue parkway will be required. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code.

Finding:

- E. *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 use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by the 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.*

Fact in Support of Finding:

1. The Public Works Department has reviewed the Project and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of Property within the proposed development because no public easements are located on the Property.

Finding:

- F. *The subject to the detailed 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 the 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 Property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The Property is developed for residential use and lies in the R-2 Zoning District, which permits residential uses.

Finding:

- G. *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. The 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.

2. The Project is not located within a specific plan area.

Finding:

- H. Solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The tentative parcel map and any future improvements are subject to Title 24 of the California Code of Regulations (the California Building Code) which 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:

- I. 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 Project is consistent with the R-2 Zoning District, which allows up to 2 residential units on the Property. Therefore, the Project will not affect the City in meeting its regional housing needs.

Finding:

- J. 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.*

Fact in Support of Finding:

1. The Project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. 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.*



Fact in Support of Finding:

1. The Property is located within the coastal zone. Therefore, a coastal development permit (CDP) is required in conjunction with the proposed tentative parcel map. The Project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter 3 of the Coastal Act. The Facts in Support of Findings L and M for the coastal development permit (below) are hereby incorporated by reference.

*Coastal Development Permit*

In accordance with Section 21.52.015(F) (Coastal Development Permits - Findings, and Decision) of the NBMC, the following findings, and facts in support of such findings, are set forth:

Finding:

- L. Conforms to all applicable sections of the certified Local Coastal Program.*

Facts in Support of Finding:

1. The property is located within an area of the coastal zone that is exempt from obtaining approval for a coastal development permit for specific types of development. This Categorical Exclusion Order (CEO) area allows for the demolition of residential structures and construction of a new two-unit residential structure without obtaining a coastal development permit, contingent upon providing notice of categorical exclusion to the Coastal Commission. The City provided the Coastal Commission Categorical Exclusion Order No. CEO2023-0011 on January 27, 2023, which consequently expired on March 3, 2023.
2. The Project is for a tentative parcel map for two-unit residential condominium purposes. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
3. The neighborhood is predominantly developed with two-story, residential buildings. The proposed subdivision, which will allow for a two-unit residential condominium, is consistent with the existing neighborhood pattern of development.

Finding:

- M. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship

between the requirement and the project's impact and be proportional to the impact. In this case, the Project proposes a two-unit residential condominium map on a property currently developed with a residential duplex. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, future site development shall be required to comply with applicable development standards sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

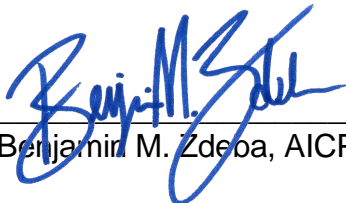
2. The tentative parcel map is for a property that is approximately 1,300 feet north of the harbor and is not near any natural landforms or environmentally sensitive areas. The approval of the tentative parcel map will not affect public views, as an existing duplex will be replaced with a new two-unit condominium building.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Tentative Parcel Map and Coastal Development Permit (PA2024-0012), subject to the conditions outlined in Exhibit "A" which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director by the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. Administrative procedures for appeals are provided in the Newport Beach Municipal Code Chapters 19.12 and 21.64. A fee is not required to appeal any final action on a coastal development permit to the Planning Commission. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF MAY 2024.**



Benjamin M. Zdeba, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL****Planning Division**

1. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. Prior to recordation of the final parcel map, the existing residential duplex shall be demolished.
3. After the recordation of the Parcel Map and prior to the building permit final, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this description change permit is final.
4. Approval of this project does not constitute approval or implied approval for any future property development permits, including but not limited to demolition permits, coastal development permits, grading permits, or building permits.
5. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this approval.
6. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) and Title 21 (Local Coastal Implementation Plan) of the NBMC.
7. 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 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 Porteous Residential Condominiums including, but not limited to **Tentative Parcel Map and Coastal Development Permit (PA2024-0012)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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 the City's costs, attorneys' fees, and damages, which the 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.

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**Public Works Division**

8. Prior to the final inspection of the building permit for new construction, a parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic 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, Subarticle 18. The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.
9. Prior to recordation of the parcel 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 Orange County Subdivision Manual, Subarticle 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 construction project.
10. All improvements shall be constructed as required by Ordinance and the Public Works Department.
11. An encroachment permit shall be required for all work activities within the public right-of-way.
12. All existing broken and/or otherwise damaged concrete curb, gutter and sidewalk panels along the Acacia Avenue and any damaged concrete panels along the alley frontages shall be reconstructed.
13. Prior to the recordation of the parcel map, all existing overhead utilities shall be undergrounded.
14. All existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed.
15. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout.
16. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
17. New turf or drought tolerant landscaping throughout the entire Acacia Avenue parkway shall be installed.

18. Additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector in case of damage is done to public improvements surrounding the development site by the private construction.

**Fire Division**

19. Fire sprinklers shall be required according to the California Fire Code and NFPA 13D Standard.
20. Fire sprinklers shall be on separate water meters.

**Building Division**

21. Prior to the recordation of the parcel map, duplex shall be serviced by separate utilities (water, electrical, and gas).