



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 June 14, 2024.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS JUNE 13, 2024

- Item 1: Gelatissimo Gelato Minor Use Permit (PA2024-0062)
Site Address: 304 Marine Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2024-035 | Council District | 5 |
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- Item 2: 1331 Antigua Newport Beach LLC Residence Lot Merger (PA2024-0018)
Site Address: 600 Seaward Road
- | | | |
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| Action: Approved by Resolution No. ZA2024-036 | Council District | 6 |
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- Item 3: Doan Residential Condominiums Tentative Parcel Map and Coastal Development Permit (PA2024-0033)
Site Address: 2501 Seaview Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2024-037 | Council District | 6 |
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- Item 4: Aflatoon Residence Coastal Development Permit (PA2024-0051)
Site Address: 434 Harbor Island Drive
- | | | |
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| Action: Approved by Resolution No. ZA2024-038 | Council District | 5 |
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- Item 5: Allen Residence Coastal Development Permit (PA2024-0063)
Site Address: 503 and 503 ½ 36th Street
- | | | |
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| Action: Approved by Resolution No. ZA2024-039 | Council District | 1 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR ZONING ADMINISTRATOR ACTIONS**
(Non-Hearing Items)

Item 1: Pavilions Temporary Refrigerated Trailers Limited Term Permit (PA2024-0086)
Site Address: 3100 Balboa Boulevard

Action: Approved

Council District 1

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. ZA2024-035

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A MINOR USE PERMIT FOR A TAKE-OUT SERVICE—FAST CASUAL EATING AND DRINKING ESTABLISHMENT LOCATED AT 304 MARINE AVENUE, UNIT B (PA2024-0062)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rey Maninang (Applicant) concerning property located at 304 Marine Avenue, Unit B, and legally described as Lot 3 of Section 4 of the Balboa Island Tract (Property), requesting approval of a minor use permit.
2. The Applicant proposes a gelato establishment (take-out service—fast casual) within an existing 767-square-foot commercial suite. The applicant is proposing minor modifications to the façade and interior of the suite. The sale of alcohol and late-hour operations (after 11:00 p.m.) are not proposed (Project).
3. The Property is located within the Mixed-Use Water (MU-W2) Zoning District and categorized as Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element. The MU-W2 zone is intended to apply to waterfront locations in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors.
4. The Property is located within the coastal zone, within the Mixed-Use Water (MU-W2) Coastal Zoning District and the Mixed-Use Water Related (MU-W) Coastal Land Use category. The MU-W2 Coastal Zoning District applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The Project does not result in an increase in parking intensity of the existing use; therefore, a coastal development permit (CDP) is not required for the Project.
5. On May 9, 2023, the City Council approved Ordinance No. 2023-6, amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) related to commercial parking. As a part of the ordinance, the land use category formerly known as “Take-Out Service, Limited”, which allowed for establishments that sells food or beverages primarily for off-site consumption and up to a maximum of six seats, was eliminated and replaced with the land use category “Take-Out Service – Fast Casual,” which is similar to “Take-Out Service, Limited,” except that it allows for a maximum of 20 seats instead of six. The City Council also simultaneously approved Resolution No. 2023-27, authorizing the submittal of the commercial parking amendment of Title 21 (Local Coastal Program Implementation Plan) to the California Coastal Commission. The amendment to Title 21 is currently under review by the Coastal Commission. Since a minor use permit is required by Title 20, the Project is categorized as a Take-Out Service – Fast Casual use. However,

since it is located in the coastal zone where the parking amendment is not yet effective, the Project is regulated as the former Take-Out Service, Limited use. Therefore, the Project is limited to a maximum of six seats, unless otherwise amended by the California Coastal Commission.

6. A public hearing was held on June 13, 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 exempt from the California Environmental Quality Act (CEQA) under Section 15301 under Class 1 (Existing Facilities) 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 1 exemption authorizes minor alterations of existing structures involving negligible or no expansion of use. The Project is a gelato shop that involves alterations to the interior floor plan of an existing commercial space with no expansion in floor area. Therefore, the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code (NBMC), 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 designates this Property as Mixed-Use Water (MU-W2) which is intended to apply to waterfront locations in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The Project is a take-out gelato shop which is a visitor-serving commercial use on Marine Avenue of Balboa Island, which is surrounded by similar and complementary uses such as residential and commercial uses including retail sales, eating, and drinking establishment, and offices.
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 MU-W2 Zoning District. Table 2-9 of NBMC Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) allows take-out service—fast casual eating, and drinking establishment use subject to approval of a minor use permit if within 100 feet of a residential zoning district. A take-out service—fast casual use is defined as an establishment that sells food or beverages, with the exception of alcohol, primarily for off-site consumption, where customers order and pay for food at either a counter or service window and up to a maximum of up to 20 seats including seats in interior areas and seats in outdoor dining areas are provided for on-site consumption of food or beverages. As discussed in Statement of Fact No. 5 above, the Project is limited to a maximum of six seats unless otherwise amended by the Coastal Commission.
2. The Property has legal, nonconforming parking due to having only three available parking spaces on site. NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires an off-street parking rate of one space per 250 square feet of gross floor area for a take-out service – fast casual use. The Project is in a vacant tenant space that was previously occupied by a retail use which has the same parking requirement. Pursuant to NBMC Section 21.38.060 (Nonconforming Parking) a use with nonconforming parking may be changed to a new use allowed in that coastal zoning district without providing additional parking, no intensification or enlargement (e.g., increase in floor area, or lot area), and the new use requires a parking rate of no more than one space per 250 square feet of gross building area. The Project has an identical parking rate and does not increase in gross floor area; therefore, no additional parking is required.
3. As conditioned, the Project will comply with NBMC Section 20.48.090 (Eating and Drinking Establishments) which specifies standards for eating and drinking establishments. Additionally, the Project will be conditioned to provide a maximum of six seats for use by patrons as required for the former take-out service, limited use unless otherwise amended by the California Coastal Commission.

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 consist of residential and commercial uses including retail sales, eating and drinking establishment, and offices. The Property is located among other commercial uses along

Marine Avenue with residential uses located directly across the alley behind the Property.

2. The Project includes an interior remodel and alteration of a 767-square-foot commercial suite with approximately 357 square feet proposed as customer serving area. The size of the commercial suite will not increase as part of this Project.
3. The Project will be conditioned to provide adequate trash storage facilities in an enclosed area pursuant to NBMC Section 20.30.120 (Solid Waste and Recyclable Materials Storage), thereby preventing any odor or related issues for the adjacent properties.
4. Fact support of Finding B.2 is hereby incorporated as reference.
5. As conditioned, the hours of operation are from 10:00 a.m. to 10:00 p.m. Sunday to Thursday and 10:00 a.m. to 11:00 p.m. on Friday, Saturday, and holidays. These hours of operation will minimize any disturbance to residences near the property.

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 2,250 square feet in area, rectangular in shape, and located in a commercial area with residential uses to the east across the rear alley. The Property has street access along Marine Avenue and alley access at the rear of the Property. Pedestrian access is available at the front of the Property along Marine Avenue.
2. The Fire Department reviewed the Project to ensure adequate public and emergency vehicle access is provided.
3. The Public Works Department, Building Division, and Fire Department have reviewed the application. The Project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

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 additional take-out dessert option to Marine Avenue and occupy a commercial suite that is currently vacant.
2. The Project includes limited hours, no alcohol service, and is limited to a maximum of six indoor seats, unless the previously discussed parking amendment is approved by the Coastal Commission. The Project meets the parking requirement pursuant to NBMC Section 21.38.060 (Nonconforming Parking) and there is not anticipated to be a significant impact or increase in demand for on-street parking in this area as a result of this Project.
3. Fact support of Finding C.3 is hereby incorporated as reference.
4. 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.
5. The Applicant is required to obtain Health Department approval prior to opening for business, and to comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

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 15301 under Class 1 (Existing Facilities) 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 PA2024-0062, 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 a call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code (NBMC).

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF JUNE 2024.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

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 cause the revocation of this Minor Use Permit.
4. All proposed signs shall be in conformance with provisions of Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code and any future approved Comprehensive Sign Program.
5. This 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 property or improvements in the vicinity or if the Property is operated or maintained to constitute a public nuisance.
6. 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 Use Permit or the processing of a new Minor Use Permit may be required.
7. 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.
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 Newport Beach Municipal Code Section 20.30.020 (Buffering and Screening).
9. 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 of Community Development may order the dimming of light sources or other remediation upon finding that the Property is excessively illuminated.

- 10. Before 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.
- 11. 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	40dBA	50dBA
Residential Portions of Mixed-Use Property	45dBA	60dBA	40dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

- 12. 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.
- 13. 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. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Federal Holidays.
- 14. No outside paging system shall be utilized in conjunction with this establishment.
- 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 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 Property 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 Minor 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 Newport Beach Municipal Code Section 20.54.060 (Time Limits and Extensions).
23. *The allowed hours of operation for this establishment shall be limited to the hours of 10:00 a.m. to 10:00 p.m. Sunday to Thursday and 10:00 a.m. to 11:00 p.m. on Friday, Saturday, and Federal Holidays.*
24. *The sale, service, or consumption of alcohol shall not be permitted.*
25. *A maximum of six interior seats shall be allowed for the Project, unless the City's Local Coastal Program Implementation Plan amendment is approved by the California Coastal Commission to allow a different number of interior seats for take-out service— fast casual uses.*
26. *Employees of the restaurant shall not use the alley as a break area or smoking area.*
27. *Drop-off and pick-up of employees shall be prohibited in the alley.*
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 Gelatissimo Gelato including, but not limited to, Minor Use Permit (PA2024-0062). 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 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

29. An accessible path of travel from parking and public right of way to the tenant space shall be required. Non-compliant items shall be brought to compliance.
30. The Applicant shall note on that plans that there is existing non-compliant parking on the rear of the Property.
31. Recessed doors maneuvering clearances for forward approach shall be provided when any obstruction within 18" of the latch side at an interior doorway, or within 24" of the latch side of an exterior doorway, projects more than 8" beyond the face of the door, measured perpendicular to the face of the door or gate. (11B-404.2.4.3 & Figure 11B-404.2.4.3 (a)).
32. The Applicant shall provide a clear space of 12" past the strike edge of the door on the opposite side to which the door swings if the door is equipped with both a latch and a closer. (Figure 11B-404.2.4.1(c)). The door shall not swing outside of the property line. The maneuvering clearances at doors shall not have changes in level (except at thresholds), slopes exceeding 1:48
33. The Applicant shall provide a plumbing fixture analysis on the plans. The applicant shall verify that the number of plumbing fixtures provided complies with CPC Table 422.1. Use chapter 4, Table A for occupant load factor & see footnote # 3 for female required fixtures. The total occupant load shall be determined in accordance with CBC or CPC Table 4-1 Occupant load factor. The applicant shall provide a summary of the number of required fixtures and the number of provided fixtures on the on the title sheet of the plans.

Public Works Department

34. A new sewer cleanout shall be installed on the existing sewer lateral per City Standard 406.

RESOLUTION NO. ZA2024-036

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LOT MERGER FOR TWO LOTS UNDER COMMON OWNERSHIP BOTH LOCATED AT 600 SEAWARD ROAD (PA2024-0018)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Elyas Sabzehi (Applicant), with respect to the property at 600 Seaward Road, legally described Lot 171 of Tract 1237 (Property). The parcel to be merged to the east has no site address and is legally described as Lot 11 of Tract 14795 (Rear Property).
2. The Applicant proposes a lot merger and requests to waive the parcel map requirement for two lots under common ownership. The merger would combine the two legal lots into a single parcel (Project).
3. The subject properties are located within the Single-Unit Residential (R-1-6000) Zoning. The General Plan Land Use Element category is Single Unit Residential Detached (RS-D).
4. The subject properties are located within the R-1-6000 Single Unit Residential Coastal Zoning District. The Coastal Land Use Plan (CLUP) category is Single Unit Residential Detached (0.0 – 5.9 DU/AC) (RSD-A).
5. The Project does not include nor propose any change in the density or intensity of land use and is therefore not considered development as defined in Newport Beach Municipal Code (NBMC) Chapter 21.70 (Definitions). For this reason, a coastal development permit is not required.
6. A public hearing was held on June 13, 2024, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with 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 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, 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 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 years; and the parcel does not have an average slope greater than 20%. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.
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, and is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 (Lot Mergers), the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of this title.*

Facts in Support of Finding:

1. The Project is consistent with the purpose and intent of NBMC Title 19 (Subdivisions), identified in NBMC Subsection 19.04.020 (Purpose and Applicability). The lot merger will not result in the creation of additional parcels by removing the interior lot line between them and will ensure all development is contained within the property.
2. The future development on the proposed parcel will be subject to NBMC Title 20 (Planning and Zoning), which is intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

B. The lots to be merged are under common fee ownership at the time of the merger.

Fact in Support of Finding:

1. The two lots to be merged are under common fee ownership, as evidenced by the Preliminary Title Report submitted with the application.

Finding:

C. The lots as merged will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the Property and Rear Property both as Single Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. Additionally, both parcels are located within the Single-Unit Residential (R-1-6000) zoning district, consistent with the surrounding area. The R-1-6000 Zoning District is intended to provide areas appropriate for a detached single-family residential dwelling unit located on a single lot that is 6,000 square feet or greater in area.
2. The CLUP designates both the Property and Rear Property as Single Unit Residential Detached (0.0-5.9 DU/AC) (RSD-A), which provides for density ranging from 0.0-5.9 dwelling units per acre. The single-unit residential land use will remain and the merger is consistent with the land use designations of the CLUP.
3. Section 20.18.030 (Residential Zoning Districts General Development Standards) of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would result in a 13,066-square-foot parcel that is in conformance to the minimum 6,000-square foot interior lot area standard of the Zoning Code. Also, the proposed merger would create one approximately 65-foot-wide parcel, exceeding the minimum 60-foot interior lot width standard of the Zoning Code.
4. The Property and Rear Property are not located within a specific plan area.

Finding:

D. Neither the lots as merged nor adjoining parcels will be deprived of legal access as a result of the merger.

Fact in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger. The Rear Property is landlocked. Legal access from the merged parcels is provided from Seaward Road and will remain unchanged if the parcels are merged.

Finding:

- E. The merged lots will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making these findings, the review authority may consider the following:*
- i. Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
 - ii. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - iii. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. Any future development on the merged lots will be required to meet all applicable development standards and, therefore, will not significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.
2. The Project will create a parcel that is consistent with the character or general orientation of adjacent and/or adjoining lots. Although the current configuration is two lots, the property is used like a single parcel with one single-family residence. As a result, the proposed merger will not result in a visible change in the character of the neighborhood and will continue to allow the property to be used for single-family purposes.
3. The Project will create a parcel similar in size and configuration to those in the vicinity and neighborhood, and conforms to the minimum lot width and area standards for the zoning district.

In accordance with Section 19.08.30.(A)(3) (Waiver of Parcel Map Requirement – Activities Eligible for Waiver) of the NBMC, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three parcels are eliminated. The following finding and facts in support of such findings are set forth:

Finding:

- F. *The proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of this title, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.*

Facts in Support of Finding:

1. Approval of the Project would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by NBMC Title 19 (Subdivisions), the General Plan, and the Coastal Land Use Plan.
2. The Property and Rear Property are not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project categorically exempt from the California Environmental Quality Act 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 Zoning Administrator of the City of Newport Beach hereby approves PA2024-0018, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated for reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF JUNE 2024.

Benjamin M. Zdeba, AICP, Zoning Administrator

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

1. The Project shall be in substantial conformance with the approved lot merger exhibits 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. Material violation of any of those laws in connection with the use may be cause for revocation of this lot merger.
4. Prior to the issuance of building permits, for any construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the Lot Merger documents with the County Recorder shall be required.
5. All easements shall be plotted, and all easement documents must be provided upon final map review.
6. 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 the leasing agent.
7. 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.
8. 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 and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **1331 Antigua Newport Beach LLC Residence Lot Merger, PA2024-0018**. 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 of the City's costs, attorney's fees, and damages that

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. ZA2024-037

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 2501 SEAVIEW AVENUE (PA2024-0033)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Rolph (Applicant), concerning property located at 2501 Seaview Avenue, legally described as Parcel 2 of Block 131 of the Corona Del Mar Tract (Property), requesting approval of a tentative parcel map and coastal development permit (CDP).
2. The Applicant requests a tentative parcel map and 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 (CLUP) 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 June 13, 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 four 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 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. *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 from Carnation Avenue and Seaview Avenue. 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 Carnation Avenue and Seaview Avenue at the side 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, 23, and 24, 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 Carnation Avenue and Seaview Avenue 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 Carnation Avenue and Seaview 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 (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 two 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 NBMCA, 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 CDP, contingent upon providing notice of categorical exclusion to the Coastal Commission. The City provided the Coastal Commission Categorical Exclusion Order No. CEO2023-0078 on November 8, 2023, which consequently expired on December 13, 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 Property 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 300 feet east 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 (PA2024-0033), 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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF JUNE 2024.



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. 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 (PA2024-0033)**. 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 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 Carnation Avenue and Seaview 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, including but not limited to the existing walls within the Carnation Avenue and Seaview Avenue right of way.
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. Install new turf or drought tolerant landscaping throughout the entire Carnation Avenue and Seaview Avenue parkway.
18. The existing street trees along Seaview Avenue shall be protected in place.

19. A 10-foot radius corner cut-off shall be dedicated in-fee to the City of Newport Beach for street purposes at the corner of Seaview Avenue and Carnation Avenue.
20. 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.
21. Prior to the recordation of the parcel map, the Applicant will update the subject addresses to read as 2501 Seaview Avenue and 220 Carnation Avenue.

Fire Division

22. NFPA 13D fire sprinkler system shall be on the meter for the unit it is protecting.
23. Each residential unit shall have separate meters for water.

Building Division

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

RESOLUTION NO. ZA2024-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW TWO-STORY SINGLE-UNIT DWELLING AND ATTACHED THREE CAR GARAGE LOCATED AT 434 HARBOR ISLAND DRIVE (PA2024-0051)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steven Sennikoff with Sennikoff Architects on behalf of the owner Kamran Aflatoon with respect to property located at 434 Harbor Island Drive, and legally described as Lot 43 of Tract 3867, requesting approval of a Coastal Development Permit.
2. The Applicant requests a coastal development permit (CDP) to allow the demolition of an existing 2,360-square foot, one-story, single-unit dwelling with an attached 469-square-foot, two-car garage and construction of a new 4,148-square-foot, two-story, single-unit dwelling and an attached 337 square foot accessory dwelling unit (ADU) and an attached 613-square-foot, three-car garage. The project includes landscape, hardscape, drainage, and accessory structures all within the confines of the property. The project also includes raising the height of the existing bulkhead. The project complies with all development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property.
3. The subject property is categorized 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.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single Unit Residential Detached) - (6.0 – 9.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zoning District.
5. A public hearing was held on June 13, 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 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 and construction of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an existing 2,360-square foot, one-story, single-unit dwelling with an attached 469-square-foot, two-car garage and construction of a new 4,148-square-foot, two story, single-unit dwelling with an attached 337 square foot accessory dwelling unit and an attached 613-square-foot, three-car garage.
3. There are no known exceptions listed in CEQA Guidelines Section 15300.2 (Exceptions) that would invalidate the use of these exemption. 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.

In accordance with Section 21.52.015(F) (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code (NBMC), 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 8,270 square feet and the proposed floor area is 5,098 square feet including the attached 337 square foot ADU and the attached 613 square foot garage.
 - b. The proposed development provides the minimum required setbacks, which are eighteen feet for front-facing garages and six feet for other buildings along the front property line adjacent to the street, four feet along each side property line, and ten feet along the second front property line abutting the Bay.
 - c. The highest flat roof/guardrail is less than 24 feet from established grade (34.64 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height requirements.

- d. The proposed development provides a three-car garage, meeting the minimum three-car garage requirement for a single-family residence with more than 4,000 square feet of habitable floor area.
 - e. The proposed lowest finished floor elevation of the new residence is 11.4 feet North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9.0-foot top of slab elevation requirement for interior living areas of new structures.
 - f. The ADU complies with the maximum floor area, parking, height, and setback provisions of the NBMC.
2. The neighborhood is predominantly developed with two-story single-unit dwellings with scattered one- and three-story single-unit dwellings. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
 3. The development fronts the Newport Harbor and is protected by a bulkhead. A bulkhead conditions report was prepared by GeoSoils, Inc. dated February 1, 2024. The report concluded that the bulkhead is in good condition as the panels are vertical with no signs of rotations, spalling, or cracking. The bulkhead has tiebacks with deadman anchors. The GeoSoils, Inc. report asserts that with maintenance, it is reasonable to assume that the bulkhead will last another 75 years.
 4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc. on February 1, 2024. The current maximum bay water elevation is 7.7 feet (NAVD88) and may exceed the existing top of bulkhead elevation of 9.0 feet during high tide or storm events. The report analyzes future sea level rise scenarios assuming an increase in the maximum water level over the next 75 years (i.e., the life of the structure) ranging from about 2 feet (likely) to 6 feet (very unlikely). The sea level is estimated to reach approximately 9.7 to 13.7 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). Once the existing bulkhead is raised to 10.9 feet NAVD88 per the proposed plans, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development.
 5. 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 bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project proposes to raise the bulkhead to an elevation of 10.9 feet (NAVD 88). GeoSoils, Inc. has confirmed the bulkhead design can be raised up to 14.4 feet (NAVD88) if needed and in compliance with the updated guidelines.
 6. The finish floor elevation of the proposed single-unit dwelling is at a minimum elevation of 11.4 feet NAVD88, which complies with the minimum 9.0-foot NAVD88 elevation standard.

7. 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 prior to the issuance of a building permit. 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 prior to building permit issuance.
8. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv) - (Natural Landform and Shoreline Protection), the property owner will be required to enter into an agreement 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). The Waiver of Future Protection is included as a condition of approval that will need to be recorded prior to a final building inspection.
9. 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 Newport Beach Municipal Code (NBMC) Section 21.30.015(D)(3)(c) – (Waterfront - Development Standards). The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be recorded prior to the issuance of building permits.
10. The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation, and to minimize pollution of runoff, and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
11. Pursuant to NBMC Section 21.35.050 (Water Quality Management Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality Management Plan (WQMP) is required. The preliminary WQMP was prepared by CivilScapes Engineering, Inc. dated February 27, 2024. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
12. Proposed landscaping complies with Implementation Plan Section 21.30.075. 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.
13. 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 150 feet northeast of the property near the intersection of Harbor Island Drive and Bayside Drive. Similarly, the nearest coastal view road segments are located along Bayside Drive. These areas offer localized, limited views of the harbor and several dwellings. Views are oriented to the bay and properties along the southeast side of the street, where the row of residences includes the subject property.

14. The proposed two-story design is consistent with the existing neighborhood pattern of development containing primarily two-story dwellings and scattered one and three-story dwellings. The project will not affect the existing, limited views afforded from the small viewing areas. The project will replace an existing single-unit dwelling with a new single-dwelling unit and attached ADU that comply with all applicable development standards. The project presents the opportunity to enhance views by updating an older structure built in the 1970's with a new building with an updated design. Glass elements and masonry shown in proposed front and rear elevations indicate a high-quality design. All structures within the front setback area along the bay would be limited to 42 inches in height, ensuring that the bay does not appear to be walled off. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone or result in significant adverse impacts to 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.*

Facts 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 (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 includes the demolition of a single-unit dwelling and the reconstruction of a single-unit dwelling with an attached ADU on an R-1 zoned lot. Up to one ADU and one JADU are allowed by right on all R-1 properties. The ADU is approximately 337 square feet and occupancy of the space would be limited. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on 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. The nearest lateral access is located less than 150 feet north of the property near the intersection of Harbor Island Drive and Bayside Drive. Harbor Island Drive does not contain an outlet. Public access points with lateral access are also provided to the south parallel to Beacon Bay, where there is a public beach along the Bay. The project would not impact access along these routes.


3. While Bayside Drive is the first public road paralleling the sea and the project site is located between Bayside Drive and the Harbor, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

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 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 (PA2024-0051), 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 (NBMC). 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 13TH DAY OF JUNE 2024.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

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. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
3. This coastal development permit does not authorize any development bayward of the private property.
4. Coastal Development Permit No. PA2024-0051 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 (NBMC), unless an extension is otherwise granted.
5. *Prior to issuance of building permits, owner shall record deed restriction prepared by the City noting the size of the unit, description of unit, prohibition on short term rentals, and prohibiting the sale of the ADU.*
6. *Prior to a final building permit inspection for the dwelling, the existing seawall shall be reinforced and capped to 10.90 feet (NAVD88) and capable to be raised up to 14.4 feet (NAVD88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.*
7. *Prior to 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 and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. The letter shall be scanned into the plan set prior to building permit issuance.*
8. *Prior to a 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 to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*

9. *Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
10. *Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.*
11. *Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.*
12. *Prior to the 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.*
13. *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.*
14. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
15. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
16. 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.
17. 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. Stock-piles 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.
18. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
19. *Prior to the issuance of building permits, 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.*
20. 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.

21. Construction activities shall comply with Section 10.28.040 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.
22. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
23. 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 pursuant to 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 (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
24. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
25. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
26. 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 is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
27. 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 the leasing agent.

28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Aflatoon Residence including, but not limited to, Coastal Development Permit (PA2024-0051)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department

29. The proposed Single Family Residence and Accessory Dwelling Unit shall be equipped with an automatic fire sprinkler system per Fire Department requirements.

Building Division

30. Per Building Division requirements during plan check, Fire and Sound separation is required between main unit and ADU.

RESOLUTION NO. ZA2024-039

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT DWELLING AND JUNIOR ACCESSORY DWELLING UNIT AND AN ATTACHED TWO-CAR GARAGE LOCATED AT 503 & 503 ½ 36TH STREET (PA2024-0063)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Morgan, Architect, on behalf of the owner Steven Allen with respect to property located at 503 & 503 ½ 36th Street, and legally described as Lot 2, Block 536 of the Canal Section Tract, requesting approval of a Coastal Development Permit.
2. The Applicant requests a coastal development permit (CDP) to allow the demolition of an existing duplex and the construction of a new 2,208-square-foot, three-story, single-unit dwelling with an attached 291 square foot junior accessory dwelling unit (JADU) and an attached 449-square-foot, two-car garage. The project includes landscape, hardscape, drainage, and accessory structures all within the confines of the property. The project also includes raising the height of the existing bulkhead. The project complies with all development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property.
3. The subject property is categorized 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 subject 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 June 13, 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 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 and construction of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an existing duplex with an attached garage and the construction of a new 2,208-square-foot, three-story, single-unit dwelling with an attached 291 square foot JADU and an attached 449-square-foot, two-car garage.
3. There are no known exceptions listed in CEQA Guidelines Section 15300.2 (Exceptions) that would invalidate the use of these exemption. 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.

In accordance with Section 21.52.015(F) (Coastal Development Permits - Findings and Decision) of the Newport Beach Municipal Code (NBMC), 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 3,120 square feet and the proposed floor area is 2,949 square feet including the 449 square foot garage and 291 square foot JADU.
 - b. The proposed development provides the minimum required setbacks, which are five feet along the front property abutting 36th street, three feet along each side property line, and 30 feet along the second front property line abutting the Bay.
 - c. The highest flat roof/guardrail is below 24 feet from established grade (33 feet NAVD88) and the highest ridge is no more than 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a two-car garage, meeting the minimum two-car garage requirement for a single-family residence with less than 4,000 square feet of habitable floor area. No parking is required for the JADU.
 - e. The proposed lowest finished floor elevation of the new residence is 9.0 feet North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9.0-foot top of slab elevation requirement for interior living areas of new structures.

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- f. The JADU complies with the maximum floor area, parking, height, and setback provisions of the NBMC.
 2. The neighborhood is predominantly developed with two-story single-unit dwellings with scattered one and three-story single-unit dwellings. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
 3. The Project proposes to demolish the existing duplex on-site to construct a single-unit dwelling and attached ADU. As a result, the Project complies with the Housing Crisis Act of 2019 and Senate Bill 8 (Skinner) because it does not result in the loss of residential density. The State Department of Housing and Community Development (HCD) has verified with the City in an email dated March 23, 2022, that an ADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The Property Owner has certified that the units are not "protected" units under Section 66330 Subdivision (d)(2). The Project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow the single-unit dwellings and accessory dwelling unit land uses. Under Coastal Land Use Plan Table 2.1.1-1, the Two Unit Residential (RT) category is intended to provide primarily for two-family residential development such as duplexes or townhomes. Implementation Program (IP) Table 21.18-1 shows "Single-Unit Dwellings – Detached" and "Accessory Dwelling Units" as allowed uses in the R-2 Coastal Zoning District. Therefore, the Project of a single-unit dwelling residence and junior accessory dwelling unit to replace the existing duplex is consistent with the R-2 zoning and land use designations and does not result in a loss of residential density.
 4. The development fronts the Newport Harbor and is protected by a bulkhead. A bulkhead conditions report was prepared by PMA Consulting, Inc. dated February 22, 2024. The report concluded that the bulkhead is required to protect the proposed principal structure on the lot, and to do so must be repaired, reinforced, and raised. The PMA Consulting, Inc. report asserts that with maintenance, repair, and reinforcement, it is reasonable to assume that the bulkhead will last another 75 years.
 5. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated February 22, 2024. The current maximum bay water elevation is 7.7 feet (NAVD88) and may exceed the existing top of bulkhead elevation of approximately 7.5 feet during rare high tide or storm events. The report analyzes future sea level rise scenarios assuming an increase in the maximum water level over the next 75 years (i.e., the life of the structure) of about 3.15. The sea level is estimated to reach approximately 9.7 to 13.7 feet (NAVD88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk and medium/high risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). Once the existing bulkhead is raised to 10.9 feet per proposed plans, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development.

6. 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 bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project proposes to raise the bulkhead to an elevation of 10.9 feet (NAVD 88). PMA Consulting, Inc. has confirmed that the bulkhead design can be raised up to 14.4 feet (NAVD88) if needed and in compliance with the updated guidelines.
7. The finish floor elevation of the proposed single-unit dwelling is at a minimum elevation of 9.0 feet NAVD88, which complies with the minimum 9.0-foot NAVD88 elevation standard.
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 prior to the issuance of a building permit. 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 prior to building permit issuance.
9. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv) - (Natural Landform and Shoreline Protection – Development Standards), the property owner will be required to enter into an agreement 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). The Waiver of Future Protection is included as a condition of approval that will need to be recorded prior to a final building inspection.
10. 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 Newport Beach Municipal Code (NBMC) Section 21.30.015(D)(3)(c) – (General Site Planning and Development Standards - Waterfront Development). The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be recorded prior to the issuance of building permits.

The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation, and to minimize pollution of runoff, and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.

11. Pursuant to NBMC 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 preliminary Water Quality Management Plan (WQMP) is required. The preliminary WQMP was prepared by Forkert Engineering & Surveying,

Inc. dated March 12, 2024. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.

12. 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.
13. 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 Newport Island Park, approximately 500 feet west of the property. Newport Island Park is separated from the subject property by the Rialto Channel and views are obstructed between them by the row of waterfront dwellings along 38th Street. Another coastal viewpoint lies 1000 feet northeast of the property, near the intersection of Central Avenue and Via Oporto. The nearest coastal view road segment is located along Newport Boulevard. These areas primarily offer views of the turning basin and Lido Channel. Views are oriented to the bay and properties across the water. Three rows of residences impede visibility to the subject property and these viewpoints and coastal view roads.
14. The proposed three-story design is consistent with the existing neighborhood pattern of development containing one, two, and some scattered three-story dwellings, and will not affect the existing, limited views afforded from the viewing areas. The project will replace an existing duplex with a new single-dwelling unit and JADU that comply with all applicable development standards, including the third-story setbacks that provide additional fifteen-foot setbacks along the bay and street property lines (as measured from the setback lines). There are also two-foot third floor setbacks from the side setback lines. The project presents the opportunity to enhance views by updating an older structure with a new building with an updated design. All structures within the front setback area along the bay would be limited to 42 inches in height, ensuring that the bay does not appear to be walled off. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone or result in significant adverse impacts to 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.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea. 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 includes

the demolition of a duplex and the reconstruction of a single-unit dwelling with an attached Junior Accessory Dwelling Unit on an R-2 zoned lot. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on 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. Coastal Access is currently provided and will continue to be provided by street ends throughout the Balboa Peninsula and the Finley Tract with access to the beach and water. The nearest vertical access is available less than 50 feet from the property at the Finley Avenue end. This location provides access (and views) to the edge of the bay but does not provide access into or along the Bay. There is an additional vertical access point at the 36th Street end where there is a grassy area. Lastly, 36th Street does not contain an outlet and the project would not impact 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 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 (PA2024-0063), 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 (NBMC). 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 13TH DAY OF JUNE 2024.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

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. Revisions to the approved plans may require an amendment to this coastal development permit or the processing of a new coastal development permit.
3. This coastal development permit does not authorize any development on the bay end of the private property.
4. Coastal Development Permit No. PA2024-0063 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 (NBMC), unless an extension is otherwise granted.
5. *Prior to the issuance of building permits, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, prohibiting the use of the accessory dwelling unit for short-term rentals (i.e., less than 30 days) and prohibiting the sale of the JADU separate from the principal dwelling. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.*
6. *Prior to a final building permit inspection for the dwelling, the existing seawall shall be reinforced and capped to 10.90 feet (NAVD88) and capable to be raised up to 14.4 feet (NAVD88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.*
7. Prior to 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 and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. The letter shall be scanned into the plan set prior to building permit issuance.
8. Prior to a 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 to address the threat of

damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors.

9. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall comply with the approved CPPP and WQHP/WQMP; any changes could require separate review and approval by the Building Division.
10. Prior to the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
11. Prior to the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
12. Prior to the 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.
13. 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.
14. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
15. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands, or their buffers.
16. 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.
17. 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. Stock-piles 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.
18. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.

-
19. Prior to the issuance of building permits, 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.
 20. 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.
 21. 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. Noise-generating construction activities are not allowed on Saturdays, Sundays, or holidays.
 22. 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.
 23. 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 pursuant to 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.
 24. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
 25. 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 is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

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 either the current business owner, property owner, or the leasing agent.
27. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Allen Residence including, but not limited to, Coastal Development Permit (PA2024-0063)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
www.newportbeachca.gov

ZONING ADMINISTRATOR ACTION LETTER

Subject: Pavilions Temporary Refrigerated Trailers (PA2024-0086)
▪ Limited Term Permit

Site Location 3100 Balboa Boulevard

Applicant Pavilions Grocery Store

Legal Description Parcel 1, Block 371, Page 4

On **June 13, 2024**, the Zoning Administrator approved a Limited Term Permit (Less than 90 days) to allow the temporary placement of one 25-foot-long electric refrigerator trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock at the rear of the Pavilions Grocery Store within The Landing Shopping Center. The trailers' refrigeration units will operate between 7 a.m. and 9 p.m., daily, to store ice and produce for an eight-day period (June 28, 2024, through July 6, 2024). The applicant will incorporate a noise reduction plan that includes sound barrier blankets on the backside of both trailers. This approval is based on the following analysis and findings and is subject to all conditions of approval listed thereafter.

I. LAND USE AND ZONING

- **General Plan Land Use Plan Category:** CN (Neighborhood Commercial)
- **Zoning District:** CN (Commercial Neighborhood)
- **Coastal Land Use Plan Category:** CN (Neighborhood Commercial – 0.0 to 0.30 FAR)
- **Coastal Zoning District:** CN (Commercial Neighborhood)

II. FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures);*

Fact in Support of Finding:

1. Class 11 exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The proposed temporary trailers will be placed within the rear of the shopping center for a limited time and will be ancillary to an existing commercial development.

Finding:

- B. *The operation of the limited duration use at the location proposed and within the time period specified 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 requested limited duration use;*

Facts in Support of Finding:

1. The Limited Term Permit will allow two (2) temporary electric refrigeration trailers to store ice and produce on-site for eight days during the Independence Day holiday weekend, beginning on June 28, 2024.
2. Condition of Approval No. 8 requires sound blankets to be applied to the trailers to help reduce the noise of electric refrigeration units. Condition of Approval No. 7 limits operation of the electric refrigeration units to between the hours of 7 a.m. and 9 p.m., daily. These operational conditions will help to reduce the possibility of excess noise to surrounding residents.
3. Condition of Approval No. 3 requires the location of the trailer within and adjacent to the loading dock area, which is approximately 100 feet from the nearest residence and will be partially screened by existing trees and landscaping along 30th Street. The generators will be oriented to face away from nearby residents.
4. Electric refrigeration trailers have been used at the subject property on holiday weekends during similar hours in the past and the use has not proven detrimental.

Finding:

- C. *The subject lot is adequate in size and shape to accommodate the limited duration use without material detriment to the use and enjoyment of other properties located adjacent to and in the vicinity of the lot;*

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. Based upon the site plan and the past temporary placement of trailers, there is adequate area without impacting vehicle circulation. The ice trailer will be located adjacent to the loading dock and will occupy two required parking spaces for a limited, eight-day duration.
2. The lot is bounded by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates the lot from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. A public parking lot is located directly across 30th Street, adjacent to where the trailer will be parked.

Finding:

- D. *The subject lot is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quantity of traffic that the limited duration use would or could reasonably be expected to generate;*

Facts in Support of Finding:

1. The subject lot has four direct driveway approaches along Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The 40-foot-long ice trailer that is adjacent to the loading dock will not impede access to and around the loading dock at the rear of the grocery store. The ice trailer will occupy two required parking stalls for a limited, eight-day duration. The 25-foot-long produce trailer's location within the loading dock will still allow for deliveries within the other half of the loading dock during the eight-day duration and will not impede any parking spaces. No traffic or site circulation issues are anticipated.
2. The produce trailer will be located within the loading dock and will not generate additional traffic or impede access.
3. The limited duration use is for two temporary electric refrigeration trailers for the grocery store to store ice and produce during the holiday weekends when significant demand is anticipated.

Finding:

- E. *Adequate temporary parking to accommodate vehicular traffic to be generated by the limited duration use would be available either on-site or at alternate locations acceptable to the Zoning Administrator;*

Fact in Support of Finding:

1. The proposed limited duration use will not create additional parking demand since the two trailers will be used to store ice and produce for the grocery store. The two parking spaces that the ice trailer will occupy will not have a detrimental effect on parking demand within the shopping center since these spaces are typically underused due to their location at the rear loading dock area. The public will not have direct access to the temporary electric refrigeration trailers.

Finding:

- F. *The limited duration use is consistent with all applicable provisions of the General Plan, any applicable specific plan, the Municipal Code, and other City regulations.*

Facts in Support of Finding:

1. The General Plan land use category for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed trailers are ancillary to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is located in the Neighborhood Commercial (CN) land use category of the Coastal Land Use Plan and is within the Neighborhood Commercial (CN) Coastal Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. Table 21.20-1 of the NBMC indicates that temporary uses and accessory structures are allowed within the CN Coastal Zoning District. As the project is the temporary placement of one 25-foot-long electric produce refrigeration trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock, it is exempt from obtaining a coastal development permit consistent with Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) of the Newport Beach Municipal Code (NBMC). The project's operation is not within a sensitive area and is not expected to be detrimental to any coastal resources, including access and views.
4. The site is not located within a specific plan area.

III. CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The temporary electric refrigeration trailers shall be located within the rear loading dock and adjacent to the rear loading dock area as shown on the site plan (Attachment No. ZA 3). The generator on the ice trailer shall face away from the nearby residences and shall be oriented southeast toward 3011 Newport Boulevard.

4. The temporary electric refrigeration trailers shall be limited to the storage of ice and produce for the grocery store. Alcohol and other store merchandise shall not be stored within the temporary trailer.
5. The 40-foot temporary electric refrigeration trailer for ice is permitted on-site for an eight-day duration from June 28, 2024 through July 6, 2024. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
6. The 25-foot temporary electric refrigeration trailer for produce is permitted on-site for an eight-day duration from June 28, 2024 through July 6, 2024. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
7. Operation of the refrigeration units within the temporary trailers shall be limited to the hours of 7 a.m. to 9 p.m., daily. If the hours of operation are not adhered to, the applicant shall be subject to fines in accordance with Newport Beach Municipal Code (NBMC) Chapter 1.05.020 (Authority and Administrative Citation Fines). Fines may reflect the maximum amount, as authorized by the City Manager or his/her designee.
8. The refrigeration trailers shall comply with the noise standards of Chapter 10.26 (Community Noise Control) of the NBMC. The maximum noise generated by the proposed use shall not exceed a noise level equal to the value of the noise standard plus 20 dBA for any period of time, as measured using A-weighted slow response. Sound barrier materials (blankets) shall be installed at all times to inhibit the noise. The Code Enforcement Officer may require additional sound testing and attenuation at his/her discretion to comply with the noise standards of the Municipal Code.
9. The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the trailers are authorized.
10. The applicant shall identify an individual whose job it is to shut down the generator on or before 9 p.m. each evening. This person's name shall be provided to the City of Newport Beach Police Department Watch Commander via email each day that the generator is in operation.
11. The generators on each temporary electric refrigeration trailer shall be set back 20 feet from the rear property line along 30th Street and 5 feet from any adjacent structures.
12. The temporary trailers shall not restrict vehicle circulation, truck access to the loading dock, or the public right-of-way at the rear of the grocery store.
13. Access for emergency vehicles must be maintained around the temporary trailer within the parking area. A minimum clearance of 14 feet is required adjacent to the trailer. Twenty feet of clearance is required in all other areas of the required fire access roadway around Pavilions Grocery Store.


14. The trailers shall not block any firefighting equipment such as fire hydrants, standpipe connections, or fire department connections.
15. The refrigeration trailers must be registered by the Department of Motor Vehicles (DMV) to be exempt from requirements for building permits.
16. An electrical permit and proper grounding and bonding shall be required if power is used elsewhere than the generator on the trailers.
17. The Limited Term Permit is for the operation of two temporary electric refrigeration trailers on-site for the hours and dates specified and does not authorize the use or operation of additional storage trailers on-site.
18. Should the temporary refrigeration trailers become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Pavilions Temporary Refrigerated Trailers including, but not limited to, Limited Term Permit (PA2024-0086)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:


Laura Rodriguez, Planning Technician


Benjamin M. Zieba, AICP, Zoning Administrator

Attachments: ZA 1 Vicinity Map
ZA 2 Description Letter
ZA 3 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit
(PA2024-0086)

3100 West Balboa Boulevard

Attachment No. ZA 2

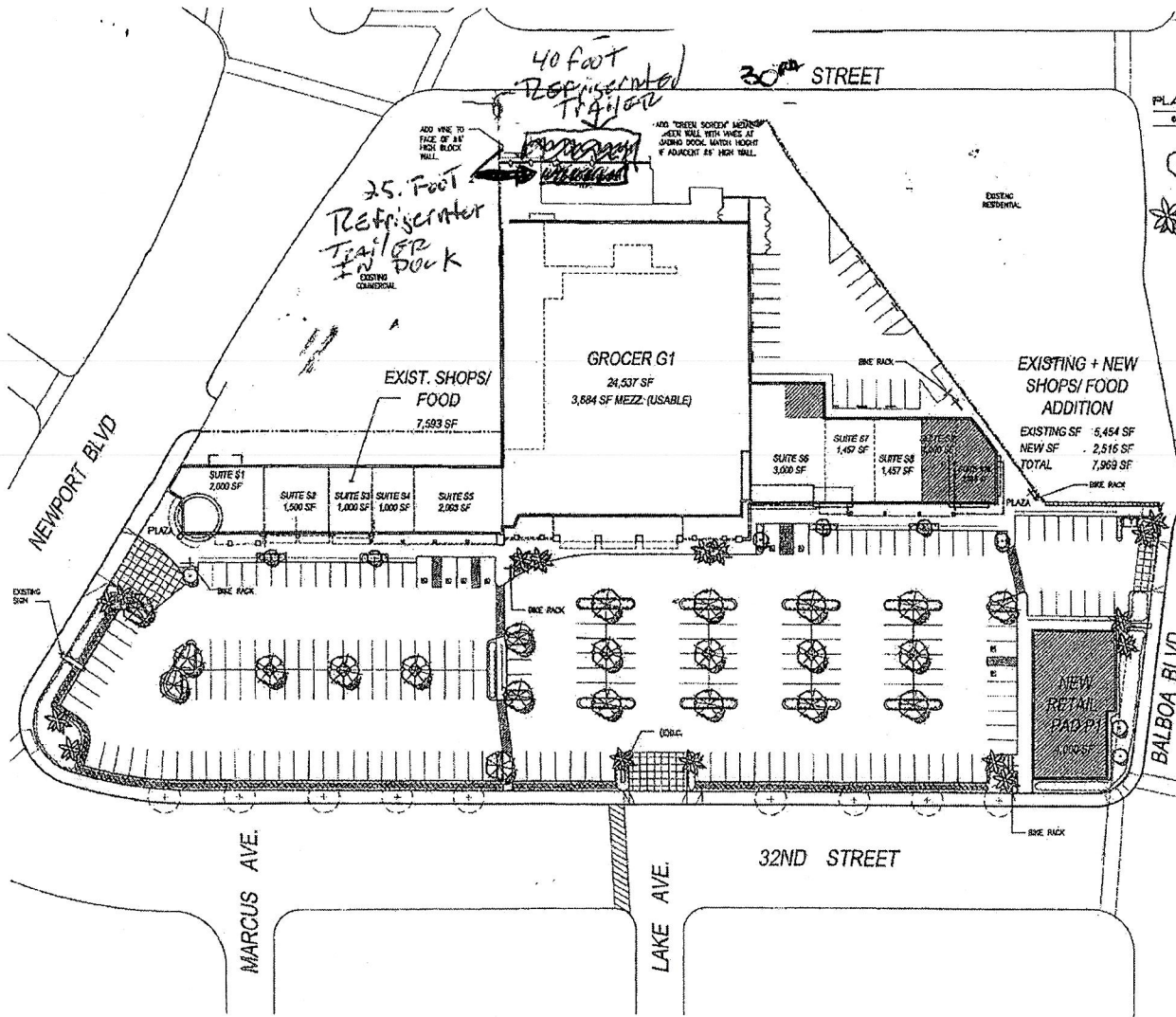
Project Description Letter

3.

To allow a 40 foot trailer to store ice for a 9-day period, from June 28th- July 6^h, adjacent to the loading dock at the rear of the Pavilions Grocery store located at the Landing Shopping Center. This trailer is needed to facilitate the additional sales of ice that accompanies the Independence Day Holiday period. The refrigeration space inside the store is not sufficient for the amount of ice needed to fulfill the customer needs. The second refrigerated trailer will be in the dock area, to store needed produce- fruits, vegetables, guacamole and fresh made products to maintain proper food safety temperatures on product for consumers. I am arranging this year for a noise reduction plan (cover for back side of trailers) on both trailers when they arrive, to reduce noise while trailers are running between 7am and 9pm, to comply with curfew restrictions. The placement of the trailers can be seen on the attached documents.

Attachment No. ZA 3

Site Plan



PLANTING LEGEND

SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	REMARKS / SCHEDULE III
TREES				
	ERIODORNYX JAPONICA COPPERTONE	NON-FRUITING LOQUAT	24" BOX	NATURAL DOUBLE STAKE
	RAAF LANGKA	AFRICAN BUTAC	24" BOX	STANDARD DOUBLE STAKE
	WASHINGTONIA ROBUSTA	MEXICAN FAN PALM	8" HIL BRUSH TRUNK HEIGHT	
	EXISTING STREET TREES	PROTECT IN PLACE		VERIFY IN FIELD
MIRBS AND GROUNDCOVERS				
	LIGOSTRUM A. TEGANUM	TEXAS PRIVET	5 GAL. / 8 GAL.	3'-0" OC.
	BOUTANVILLEA RPP.	BOUGAINVILLEA	5 GAL.	4'-0" OC. L.
	CALLISTEMON LITTLE JOHN	DRYSP BOTTLEBRUSH	5 GAL.	3'-0" OC. L.
	LANTANA 'SPREADING SUNSHINE'	HCH	1 GAL.	3'-0" OC. L.
	ROSA FLORIBUNDA 'ICEBERG'	ICEBERG ROSE	5 GAL.	36" OC. H.
	ROSEMARINA ORIGINALE 'NEZEE'	NCH	1 GAL.	24" OC. L.
	PELARGONIA PELTATIUM	MY GERANIUM	4" POT	8' OC. H.
	ANGOSTHILOS FLAVIDUS	RED KANGAROO PAW	5 GAL.	3'-0" OC. H.
	PESTICIA OVINA GILLIGA	BLUE PEGGIE	4" POT	8' OC. L.
	HEPERICALLIS HYBRID	EVERGREEN DAYLILY	1 GAL.	8' OC. H.
	NAMABELLA TENUICOMA	MEXICAN FEATHERGRASS	1 GAL.	2' OC. L.
	PROPERYRUM TENAX 'YELLOW WAVE'	YELLOW GAZE PLAX	8 GAL.	3'-0" OC. H.
VINE				
	TRACHELOSPERMUM JASMINODES	STAR JASMINE	3 GAL.	INSTALL ON WALL AND GREEN SCREEN*

NOTES:

- ALL FLAT, MIRBS AND GROUNDCOVER AREAS TO BE TOP DRESSED WITH 1" LAYER OF FINE GRENDED REDWOOD BARK MULCH. ALL SLOPE AREAS 2% OR GREATER TO BE TOP DRESSED WITH 4" LAYER OF FINE GRENDED REDWOOD BARK MULCH. ALL TOP DRESSINGS TO BE INSTALLED TO TOP OF SOIL.
- ALL STREET TREES AND ALL TREES WITHIN 5' OF HARDSCAPE ELEMENTS, SUCH AS CURBS, WALLS, BUILDINGS OR SILLIS, SHALL BE PROVIDED WITH APPROVED ROOT BARRIER CONTROL DIVICES SUCH AS MODEL NO. 18 (S-1) AVAILABLE FROM EDEPROOF, 480-438-7888 OR WWW.EDEPROOF.COM. INSTALLATION TO BE PER MANUFACTURER'S RECOMMENDATIONS AND SPECIFICATIONS AND BE A MINIMUM OF 16 LINEAL FEET.
- CONTRACTOR TO REPAIR OR REPLACE ANY EXISTING WORK DONE BY OTHERS DAMAGED DUE TO CONSTRUCTION.
- A POST GRADING AGRONOMIC SOIL ANALYSIS IS REQUIRED. CONTRACTOR TO ATTEND SOIL IN ACCORDANCE WITH SOIL REPORT RECOMMENDATIONS.
- CONTRACTOR TO VERIFY ALL UTILITIES AND EXISTING CONDITIONS IN FIELD PRIOR TO CONSTRUCTION.
- ALL PLANTING TO BE IRRIGATED WITH LOW VOLUME SPRAY HEADS OR BUBBLERS CONNECTED AUTOMATIC IRRIGATION CONTROL TO VALVES AND TIED INTO A CENTRAL AUTOMATIC CONTROLLER.
- ALL PLANTING AND IRRIGATION TO COMPLY WITH CITY OF NEWPORT BEACH LANDSCAPE GUIDELINES.



21401 FORBES ROAD, SUITE 50
LAJUN, ORANGE, CALIFORNIA 92671
(714) 367-9973 • FAX (714) 367-9321



NORTH

1" = 30'-0"



2008.126 (2.17.09)



BALBOA CENTER NEWPORT BEACH, CA

PRELIMINARY PLANTING PLAN



CATELLUS™
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ARCHITECTS ORANGE

144 NORTH ORANGE ST., ORANGE, CALIFORNIA 92666 (714) 835-9387

PA2014-082 for XP2014-002
3100 Balboa Boulevard
Pavilions Grocery Store

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