



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 January 17, 2025.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS JANUARY 16, 2025

- Item 1: The Place Limited Term Permit (PA2023-0230)
Site Address: 2920 East Coast Highway
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| Action: Approved by Resolution No. ZA2025-001 | Council District | 6 |
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- Item 2: Helmsman Ale House Limited Term Permit and Coastal Development Permit (PA2023-0227)
Site Address: 2920 Newport Boulevard, Suite D
- | | | |
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| Action: Approved by Resolution No. ZA2025-002 | Council District | 1 |
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- Item 3: Placentia Avenue Apartments Minor Site Development Review and Affordable Housing Implementation Plan (PA2023-0053)
Site Address: 1526 Placentia Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2025-003 | Council District | 2 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Wendy Joe, Civilian Investigator, NBPD (*Telecom - Massage – ABC License*)
Mark Short, Police Sergeant, NBPD (*Massage – ABC License*)

RESOLUTION NO. ZA2025-001

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LIMITED TERM PERMIT TO ALLOW A TEMPORARY OUTDOOR DINING AREA LOCATED AT 2920 EAST COAST HIGHWAY (PA2023-0230)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Katie Flamson of The Place (Applicant) requesting approval of the Limited Term Permit with respect to property located at 2920 East Coast Highway, and legally described as Lot 2, Block O, Tract 323 with Assessor Parcel Number 459-183-02, in the City of Newport Beach, Orange County, California (Property).
2. On May 25, 2023, a public hearing was held online via Zoom. At the close of the public hearing, the Zoning Administrator authorized a Limited Term Permit for a 500-square-foot outdoor dining area for up to a one-year term (PA2022-119). The permit expired on December 31, 2023.
3. The Applicant requests approval of a Limited Term Permit to maintain an existing 500-square-foot maximum outdoor dining area for up to six months (January 31, 2025 through July 31, 2025) (Project).
4. The subject property is designated CC (Corridor Commercial) by the General Plan Land Use Element and is located within the CC (Commercial Corridor) Zoning District.
5. The subject property is not located within the coastal zone.
6. Pursuant to Assembly Bill No. 1217, Gabriel (Business Pandemic Relief), temporary relief measures to suspend certain legal restrictions related to alcohol service, food service, and parking have been extended. As it related to parking, a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for outdoor dining areas is authorized to reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to accommodate an outdoor dining area.
7. A public hearing was held on January 16, 2025, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is categorically exempt pursuant to Title 14 of the California Code of Regulations pursuant to Section 15301, Division 6, Chapter 3, Guidelines for

Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.

2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of an existing or former use. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The project authorizes a temporary 500 square foot outdoor dining area within the parking lot of an existing restaurant and qualifies under the parameters of the Class 1 and Class 3 exemptions.
3. The exceptions to the categorical exemptions under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Section 20.52.040(G) (Limited Term Permits – Findings and Decision) of the Newport Beach Municipal Code (NBMC), the findings and facts in support of such findings are set forth as follows:

Finding:

- A. *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 a temporary outdoor dining area within the parking lot of The Place restaurant. The restaurant was authorized in 1983 through Use Permit No. 3058 (as amended) while the current temporary outdoor dining area was authorized pursuant to the Limited Term Permit filed as PA2022-119. The temporary outdoor dining area would serve as additional outdoor seating for patrons and is fully located on private property.

2. A temporary barrier is installed within the parking lot to both separate the outdoor dining area from the parking lot and alley and to delineate the area dedicated for outdoor dining and alcohol service. There are no existing City utilities within the expanded dining area.
3. The existing hours of operation for the restaurant are 4:00 p.m. through 9:00 p.m. Monday through Thursday, 11:30 a.m. through 9:00 p.m. Friday and Saturday, and 11:00 a.m. through 9:00 p.m. Sunday. The temporary outdoor dining area is proposed to operate concurrent with the restaurant.
4. Condition No. 1 requires all conditions of approval of Use Permit No. 3058 be adhered to for this temporary outdoor dining area, unless otherwise modified by the conditions of approval contained herein. No amplified sound or live entertainment shall be permitted within the temporary outdoor dining area.
5. Condition No. 3 limits the operation of the temporary outdoor dining area for up to a six-month term, terminating on July 31, 2025.
6. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines, as required by Condition No. 12.
7. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements, as required by Condition No. 14.
8. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA), as required by Condition No. 21.
9. The Newport Beach Police Department (NBPD) has reviewed the request and is not opposed to the outdoor dining area application.

Finding:

- B. *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 0.08 acres in size and is adjacent to East Coast Highway. Based on the site plan, there is adequate area to accommodate the temporary outdoor dining area without impacting vehicular or pedestrian circulation. If approved, the temporary outdoor dining area would be a maximum of 500 square feet.
2. The lot frontage is on East Coast Highway and the use is within a shared building with other commercial uses. The existing food service use has existed at this site since the

early 1980s. The expanded outdoor dining area will be located at the rear of the building and will not impede use and enjoyment of the properties in the area.

3. The proposed outdoor area will occupy two of four onsite parking spaces. One accessible stall and one standard stall will be maintained on site.
4. Given the outdoor dining area is located entirely on private property, impacts to pedestrian circulation are not anticipated.
5. No traffic or site circulation issues were experienced during the previous operation of the temporary outdoor dining area and therefore, are not anticipated with this approval.

Finding:

- C. *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.*

Fact in Support of Finding:

1. The subject site has direct access to Coast Highway and an alley connecting to Third Avenue. The temporary outdoor dining area is located within the private parking lot abutting the restaurant and will not impede access. Parking for the lot will remain accessible from the alley.

Finding:

- D. *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; and*

Facts in Support of Finding:

1. The temporary outdoor dining area will occupy two of the existing four parking spaces with appropriate delineation and temporary substantial physical barricades which will not encroach into the drive-aisles. One accessible parking space and one standard parking space will be maintained for the restaurant's use for the duration of the Limited Term Permit.
2. The commercial corridor of Corona del Mar provides public on-street parking along East Coast Highway. Additionally, The Place historically serves the surrounding neighborhood with a higher volume of bike and pedestrian traffic.
3. Fact 1 in Support of Finding C incorporated by reference.

Finding:

- E. *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 CC (Corridor Commercial). The CC designation is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. Permitted uses include those permitted in the CC Zoning designation, which includes restaurants by obtaining a use permit. The expanded outdoor dining use is accessory to the existing restaurant, will be utilized for a limited duration on-site and will be in furtherance of the intention for this land use category.
2. The site is in the Commercial Corridor (CC) Zoning District. The CC Zoning District is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The expanded outdoor dining use is accessory to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CC designation. The CC District also allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The Limited Term Permit for temporary outdoor dining would complement and be consistent with the other commercial uses permitted within the CC Zoning District in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and

maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed Limited Term Permit would support local business and economic prosperity while maintaining the unique character of the Corona del Mar community.


5. The Property is 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 is categorically exempt from the California Environmental Quality Act under Section 15301 under Class 1 (Existing Facilities) and 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 Limited Term Permit filed as PA2023-0230, 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 by the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JANUARY 2025.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

1. *All conditions of approval from Use Permit No. 3058 shall be adhered to unless specifically modified by the following set of conditions.*
2. The temporary outdoor dining area location shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
3. *The approval of this Limited Term Permit shall be effective from the effective date of this approval until July 31, 2025. The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this Limited Term Permit on or before July 31, 2025. No extension of time shall be authorized under this Limited Term Permit.*
4. *If the applicant wishes to establish a permanent outdoor dining area, then the applicant shall apply for a Conditional Use Permit, including a potential parking waiver, and shall further be prepared to make improvements to the outdoor dining area, if said Conditional Use Permit is approved.*
5. *The outdoor dining area shall not exceed 500 square feet and shall occupy no more than two on-site parking spaces. One accessible parking space and one standard space shall be maintained clear and accessible for use at all times.*
6. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the temporary outdoor dining area as part of this approval shall not extend beyond 9:00 p.m., daily.*
7. *There shall be no use of amplified sound or live entertainment in the temporary outdoor dining area.*
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall provide adequate trash receptacles within the outdoor dining area and the operator shall provide for periodic and appropriate removal of trash, litter, debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
10. The Applicant shall ensure that the trash 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).

11. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control (ABC).*
12. The Applicant shall adhere to all applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the outdoor dining area.
13. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the Limited Term Permit.
14. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
15. The sale of alcohol “to go” to patrons that dine within the temporary outdoor dining area shall be prohibited.
16. The Applicant shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
17. This Limited Term 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.
18. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
19. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit.
20. To the fullest extent permitted by law, 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 this **Limited Term Permit (PA2023-0230) for The Place Outdoor Dining**. 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.

Building Department

21. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-ft wide accessible path to all functional areas shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.
 - f. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
22. Provide not less than 5% accessible seating at tables and counters with knee clearance of at least 27-inches-high, 30-inches-wide, and 19-inches-deep.
23. The tops of dining surfaces and work surfaces shall be 28 inches to 34 inches above the finish floor.
24. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
25. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
26. Accessible routes, including under canopy(ies) and other overhead improvements shall maintain a minimum clear height of 80 inches.
27. All electrical distribution lines shall be in good working order and shall be protected from pedestrian and vehicular traffic and shall accommodate accessibility.

Fire Department

28. Heaters or other heat emitting devices shall not be used under any flammable or combustible material.
29. Tents shall meet all requirements of Chapter 31 of the California Fire Code. All documents shall be available for inspection.
30. One 2-A: 10BC fire extinguisher shall be mounted and in a conspicuous, readily accessible location.
31. Two exits shall be provided for any area with an occupant load exceeding 49.
32. All fire department appurtenances shall remain accessible with 3 feet of clearance in all directions.

Public Works Department

33. *A substantial barricade (k-rail, water-filled barrier or other barrier, approved by the Public Works Department) shall be provided between the proposed outdoor dining area within the parking spaces and the alley. This barrier shall also be provided between the outdoor dining area and any parking drive aisles and parking stalls. Efforts shall be made by the operator to provide an alternative design to the bare, exposed substantial barrier to soften the look and improve the aesthetic to the neighborhood while still meeting the minimum substantial barricade requirements. The operator shall provide the conceptual ideas to the Planning Division for review and approval by Planning and Public Works.*
34. *The dining area and substantial barricades shall not encroach into the existing drive aisle or alley right of way.*
35. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
36. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
37. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
38. Outdoor dining areas shall adhere to the SCE Clearance Decal standards.

RESOLUTION NO. ZA2025-002

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A LIMITED TERM PERMIT AND COASTAL DEVELOPMENT PERMIT TO ALLOW A TEMPORARY OUTDOOR DINING AREA LOCATED AT 2920 NEWPORT BOULEVARD, SUITE D (PA2023-0227)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Donald Callender, representing Lemon Meringue, LLC (Applicant) with respect to property located at 2920 Newport Boulevard, Suite D, and legally described as Assessor Parcel Numbers 047-043-04 and 047-043-20, in the City of Newport Beach, Orange County, California (Property) requesting approval of a limited term permit and a coastal development permit.
2. On June 11, 2020, the Community Development Director approved Emergency Temporary Use Permit No. UP2020-029 and Emergency Coastal Development Permit No. CD2020-021 (PA2020-102) to allow a 5,500 square foot temporary patio in the rear parking area of the Helmsman Ale House restaurant. The patio was authorized for the duration of Emergency Order No. 2020-005.
3. On August 20, 2020, through Emergency Temporary Use Permit No. UP2020-143 and Coastal Development Permit No. CD2020-128 (PA2020-246), which authorized the addition of an outdoor cooking area including a woodburning cooking appliance within the temporary patio.
4. On January 22, 2022, a Zoning Administrator public hearing was held online via Zoom. The Zoning Administrator authorized a Limited Term Permit No. XP2021-026 and Coastal Development Permit No. CD2021-050 (PA2021-204) for a reduced outdoor dining area of 1,000 square feet in size. The patio was authorized from January 11, 2022, through January 10, 2023.
5. On December 23, 2022, the Zoning Administrator extended the Limited Term Permit and Coastal Development Permit beyond its initial term through December 30, 2023 (PA2022-0280).
6. The Applicant requests approval of a limited term and a coastal development permit to maintain the 1,000 square foot maximum outdoor dining area (Project).
7. The Property is designated CV (Visitor Serving Commercial) by the General Plan Land Use Element and is located within the CV (Commercial Visitor-Serving) Zoning District.
8. The Property is located within the coastal zone. The Coastal Land Use Plan category is CV-A (Visitor Serving Commercial – 0.0 - 0.75 FAR) and it is located within the CV (Commercial Visitor-Serving) Coastal Zoning district.

9. Pursuant to Assembly Bill No. 1217, Gabriel (Business Pandemic Relief), temporary relief measures to suspend certain legal restrictions related to alcohol service, food service, and parking have been extended. As it related to parking, a local jurisdiction that has not adopted an ordinance that provides relief from parking restrictions for outdoor dining areas is authorized to reduce the number of required parking spaces for existing uses by the number of spaces that the local jurisdiction determines are needed to accommodate an outdoor dining area.
10. A public hearing was held on January 16, 2025, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is categorically exempt pursuant to Title 14 of the California Code of Regulations pursuant to Section 15301, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of an existing or former use. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The project authorizes a temporary 1,000 square foot outdoor dining area within the parking lot of an existing restaurant and qualifies under the parameters of the Class 1 and Class 3 exemptions.
3. The exceptions to the categorical exemptions under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Section 20.52.040(G) (Limited Term Permits – Finding and Decision) of the Newport Beach Municipal Code (“NBMC”), the findings and facts in support of such findings are set forth as follows:

Finding:

- A. *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 an extended temporary outdoor dining area within the parking lot of the Helmsman Ale House restaurant. The restaurant was authorized in 1993 through Use Permit No. 3485 (as amended). The temporary outdoor dining area would serve as additional outdoor seating for guests and is fully located on private property.
2. A temporary barrier is installed within the parking lot to both separate the patio from the parking lot and drive aisle and to delineate the area dedicated for outdoor dining and alcohol service. There are no existing City utilities within the expanded dining area.
3. The existing hours of operation for the interior of the restaurant are limited from 6 a.m. to 11 p.m., Sunday through Thursday and from 6 a.m. to 1 a.m., Friday and Saturday. The proposed temporary outdoor dining area would close by 9 p.m., Monday through Thursday, and by 10 p.m., Friday through Sunday.
4. Condition of Approval No. 1 requires all conditions of approval of Use Permit No. 3485 be adhered to for this temporary outdoor dining area, unless otherwise modified by the conditions of approval contained herein. No live entertainment, exterior amplified music, sound systems, televisions, paging systems, etc. shall be permitted within the temporary outdoor dining area.
5. Condition of Approval No. 3 limits the operation of the temporary outdoor dining area for up to a six-month term, terminating on July 31, 2025.
6. Outdoor dining areas are common within the Balboa Peninsula area, have been used at the subject property during similar hours in the past. There have been complaints received by the City to date regarding the operation of the business, including seven disturbance calls from a neighbor in 2024. The Newport Beach Police Department (NBPD) has worked with the applicant over the last year to improve security practices, door management, and over-crowding at the restaurant. The Applicant shared their security plan with NBPD, reformed security staff, and provided alcohol education to staff. Their calls for service have decreased which has resulted in less burden on police resources. Therefore, the NBPD is not opposed to the patio application, but recommends reevaluation of the project prior to approval of a permanent patio in the future.
7. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA), as required by Condition of Approval No. 29.

8. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
9. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.

Finding:

- B. *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 restaurant is located on a site that is comprised of two (2) separate parcels: one (1) with the restaurant building and one (1) with the parking lot to serve the building. The combined two (2) parcels are approximately 0.5-acre in size. If approved, the temporary outdoor patio would be a maximum of 1,000 square feet and has been conditioned to have no permanent structures.
2. The project site is located on the northeast corner of Newport Boulevard and 30th Street. Surrounding uses include residential neighborhoods, which are located to the west beyond. The nearest residential use is approximately 50 feet away from the outdoor patio, The Landing shopping center, and a mixed-use neighborhood to the north, east and south. The temporary patio should not negatively affect surrounding uses as it is regulated by the conditions of approval which limit the size, hours of operation, and activities which can take place in the outdoor dining area. Furthermore, the Applicant is proactively coordinating with NBPD to update their security plan and provide additional training for employees to prevent disturbances related to patio operations. According to the NBPD, these efforts have resulted in a decrease in calls for service to the property.
3. The parking lot has previously been restriped to accommodate the outdoor dining area with the approval of PA2021-204. Two (2) accessible parking spaces shall be maintained, clear, and accessible for use at all times. No traffic or site circulation issues were experienced during the previous operation of the outdoor dining area and therefore, are not anticipated with this approval.
4. Given the expanded patio is located entirely on private property, impacts to pedestrian circulation are not anticipated.

Finding:

- C. *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.*

Fact in Support of Finding:

1. The subject site has direct driveway approaches taken from 30th Street and the alley. The temporary outdoor dining area is located within the private parking lot abutting the restaurant and will not impede access. Peak hours for the restaurant are anticipated to be in the evening, when other retail and office uses on the property are typically closed. No traffic issues are anticipated with the continued use of the outdoor dining area.

Finding:

- D. 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; and*

Facts in Support of Finding:

1. The subject property has been occupied by a food service use since 1993. The existing parking lot has historically accommodated the restaurant. The existing parking lot is expected to accommodate the temporary use. There have been no parking-related complaints or issues raised related to the outdoor dining area installed under the previous emergency permit.
2. Fact 1 in Support of Finding C incorporated by reference.

Finding:

- E. 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 CV (Visitor Serving Commercial). The CV category is intended to allow for a range of accommodations (e.g., hotels, motels, hostels), goods, and services intended to primarily serve visitors. Permitted uses include those permitted in the CV Zoning designation, which includes restaurants by obtaining a use permit. The expanded outdoor dining use is accessory to the existing restaurant, will be utilized for a limited duration on-site and will be in furtherance of the intention for this land use category.
2. The site is in the Commercial Visitor Serving (CV) Zoning District. The CV designation applies to areas intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors. The expanded outdoor dining use is accessory to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation. The CV District also allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.

3. The Limited Term Permit for temporary outdoor dining would complement and be consistent with the other commercial uses permitted within the CV Zoning District since it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Balboa Peninsula community.
5. The Property is not located within a specific plan area.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of 10% or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The

expanded outdoor dining area and barrier within the parking lot are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.

2. An initial evaluation was conducted of the project site in accordance with NBMC Section 21.30.100 (Scenic and Visual Quality Protection). The project site is not located between the first public roadway and the sea, the project site is not located on a coastal bluff or canyon, and the project site is not adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. Furthermore, the development site contains no natural landforms or vegetation. The initial evaluation did not indicate that the project has the potential to significantly impact a public view or viewshed or the scenic and visual qualities of the coastal zone.
3. The nearest coastal viewpoint is Lido Park, over 1,000 feet northeast of the Property. The subject property is situated further inland than Lido Park and not within the viewshed of the park. Due to the distance of the outdoor dining area from the public viewpoint, the project will not impact coastal views. The expanded outdoor dining area complies with all applicable Title 21 (Local Coastal Program Implementation Plan) development standards and maintains an area consistent with the existing pattern of development of Balboa Peninsula. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
4. The proposed outdoor dining area is located within private property.
5. Improvements are complementary to the area; the subject restaurant and adjacent neighbors have similar outdoor dining improvements within the parking areas and walkways of Balboa Peninsula.
6. Development authorized by this permit is not located in any environmentally sensitive habitat area and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing the public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
7. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

- G. *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 of shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline.

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) and 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 Limited Term Permit and Coastal Development Permit filed as PA2023-0227, 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 by the provisions of Title 20 Planning and Zoning and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JANUARY 2025.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

1. *All conditions of approval from Use Permit No. 3485 shall be adhered to unless specifically modified by the following set of conditions.*
2. The temporary outdoor dining area location shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
3. *The approval of this Limited Term Permit and Coastal Development Permit shall be effective from the effective date of this approval until July 31, 2025. The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this Limited Term Permit on or before July 31, 2025. The Applicant may apply for one 3-month extension of time under this Limited Term Permit and Coastal Development Permit pursuant to Sections 20.54.060 and 21.54.060 of the NBMC. No subsequent extensions shall be granted.*
4. *The outdoor dining area shall not exceed 1,000 square feet. Two (2) accessible parking spaces shall be maintained clear and accessible for use at all times.*
5. *The remaining on-site parking spaces shall remain free of obstructions and available for vehicle parking.*
6. *No permanent structures that require building permits shall be allowed.*
7. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the temporary outdoor dining area as part of this approval shall not extend beyond 9:00 p.m. Monday through Thursday and 10:00 p.m., Friday through Sunday.*
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The Applicant shall adhere to all applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the outdoor dining area.
10. The Applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the Limited Term Permit.

11. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Care Agency is required prior to the issuance of a building permit.
12. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26.
13. *No outdoor sound system, loudspeakers, or paging system shall be utilized in conjunction with the outdoor dining area.*
14. *There shall be no use of amplified sound or live entertainment in the temporary outdoor dining area.*
15. *No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.*
16. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting and indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*
17. The outdoor dining area 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. 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 Limited Term Permit and Coastal Development Permit.
19. 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, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
20. *Strict adherence to maximum occupancy limits is required.*

21. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
22. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
23. All trash shall be stored within a building or within dumpsters stored in a trash enclosure or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
24. 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).
25. This Limited Term Permit and Coastal Development Permit 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. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
27. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
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 the Helmsman Ale House Limited Term Permit and Coastal Development Permit including, but not limited to, PA2023-0227**. 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.

Building Department

29. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-ft wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.
30. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be minimum 48 inches free and clear.

Fire Department

31. No smoking signs shall be conspicuously posted in all tents open to the public.
32. No heating equipment to be used in the tent.
33. The Applicant shall submit a seating chart an occupant load analysis to the Fire Department for review.
34. The Applicant shall submit documentation to the Fire Department for review of tent fabrics and listings per California Code of Regulations, Title 19, Division 1, 315-355.
35. At least one (1) approved 2A10BC fire extinguisher shall be provided in the tent.
36. The tent shall have a permanently affixed label identifying:
 - a. Seal of Registration;
 - b. Name and registration number of the approved applicator; and
 - c. If registered fabric, the trade name and registration number of the approved fabric and date of production.

Public Works Department

37. The applicant shall install and maintain a substantial physical barrier (K-rail, water-filled traffic barrier or other barrier approved by the Public Works Department)

between the proposed outdoor dining area and parking spaces and parking aisles in the parking lot. The physical barrier shall not encroach into the parking aisle or any required parking space.

38. Expanded outdoor dining areas shall adhere to the SCE Clearance Decal standards.

RESOLUTION NO. ZA2025-003

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A SITE DEVELOPMENT REVIEW AND AFFORDABLE HOUSING IMPLEMENTATION PLAN FOR PLACENTIA AVENUE APARTMENTS PROJECT LOCATED AT 1526 PLACENTIA AVENUE (PA2023-0053)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Oldham Architects (Applicant), with respect to the property located at 1526 Placentia Avenue, and legally described as parcel 1 of Parcel Map 124-25 (Property).
2. The Applicant is requesting approval to develop a three-story, apartment building consisting of 11 residential units and 24 parking spaces (Project), which requires the following approvals:
 - Minor Site Development Review (SDR): A site development review in accordance with Section 20.52.080 (Site Development Reviews) of the Newport Beach Municipal Code (NBMC) to construct the Project; and
 - Affordable Housing Implementation Plan (AHIP): A plan specifying how the Project would meet the City's affordable housing requirements, in exchange for a request of 46.24% increase in density pursuant to Chapter 20.32 (Density Bonus) of the NBMC and Government Code Section 65915 et seq. (State Density Bonus Law).
3. The Property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM) Zoning District.
4. The Property is not located within the coastal zone.
5. A public hearing was held on January 16, 2025 online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with California Government Code Section 54950 et seq. (Ralph M. Brown Act) and Chapter 20.62 (Public Hearings) of 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 Sections 15332 under Class 32 (In-fill Development Projects) 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. Class 32 exempts projects which are consistent with the applicable General Plan designation applicable policies, zoning designations and regulations, and development that occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses. The Project includes the demolition of an existing commercial building and the construction of a new 11-unit three story residential building on a 0.37-acre project site. The Project does not require a traffic study, as it generates 74 daily trips where Section 15.40 (Traffic Phasing Ordinance) of the NBMC does not require a traffic study if a project does not generate an increase of more than 300 average daily trips. In addition, traffic was analyzed by the city traffic engineer team and found that the change from the existing commercial use to a residential use would result in total reduction in daily trips count. Meaning that less traffic is generated by the project than the existing commercial use. Therefore, the Project does not result in significant impact to traffic or related air quality. The Project includes conditions of approval to ensure compliance with noise standards of the NBMC. A preliminary Water Quality Management Plan (WQMP) has been submitted and reviewed by the City's Geotechnical Engineer. The WQMP concludes that the property is located outside of areas susceptible to erosion and that the project is not anticipated to affect the watershed's overall drainage. The Property is adequately served by all required utilities and public services.

SECTION 3. REQUIRED FINDINGS.

Minor Site Development Review

In accordance with Section 20.52.080(F) (Site Development Reviews – Findings and Decisions) of the NBMC, the following findings and facts in support of such findings are set forth as follows:

Finding:

- A. *The proposed development is allowed within the subject zoning district.*

Facts in Support of Finding:

1. The Property is zoned Multiple Residential (RM) which is intended to provide for appropriate areas for multi-unit residential developments containing attached or detached units. The RM zoning district allows multi-unit residential development. This site is limited to a maximum site area of 2,420 square feet per dwelling unit, which equates to 18 units per net acre. Therefore, the maximum number of allowed units for the property per the development standards of the RM zone is six units (15,050SF/2,420SF), however, NMBC section 20.32.040. and Government Code Section 65915 (Density Bonus Law) requires that base and bonus units be rounded up. Therefore, allowing the site to have seven base units. The project base units comply with the maximum allowed density. The applicant proposes a density bonus increase of 46.24% or four units above the base density, in exchange for providing the necessary

level of affordable housing pursuant to Government Code Section 65915 (Density Bonus Law) and Newport Beach Municipal Code (NBMC) Section 20.32 (Density Bonus).

2. The Multiple Residential (RM) zoning district requires approval of a site development review prior to the issuance of a grading or building permit for the construction of any new structures.

Finding:

- B. The proposed development is in compliance with all of the following applicable criteria:*
- i. Compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;*
 - ii. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design;*
 - iii. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;*
 - iv. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;*
 - v. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and*
 - vi. The protection of significant views from public right(s)-of-way and compliance with NBMC Section 20.30.100 (Public View Protection).*

Facts in Support of Finding:

1. The Property is categorized as Multiple Residential (RM) by the General Plan Land Use Element. It provides primarily for multi-family residential development containing attached or detached dwelling units.
2. The Project is consistent with the following City of Newport Beach General Plan policies that establish fundamental criteria for the formation and implementation of new residential development:
 - a. ***Land Use Policy LU 2.3 (Range of Residential Choices):*** *Provide opportunities for the development of residential units that respond to community and regional needs in terms of density, size, location, and cost. Implement goals, policies, programs, and objectives identified within the City's Housing Element.*

The Project proposes a 11-unit apartment building, including one affordable unit for very-low-income households. The Project responds to market needs and diversifies the City's housing stock by adding additional dwelling units in the West Newport Mesa Area.

- b. **Land Use Policy LU 5.1.9 (Character and Quality of Multi-Family Residential):** *Require that multi-family dwellings be designed to convey a high-quality architectural character in regard to building elevations, ground floor treatment, roof design, parking, open space, and amenities.*

The Project design is consistent with the parameters set forth. The architecture incorporates a modern contemporary style with articulated façade composed of a mix of stucco, synthetic wood siding, and veneer stone. The contemporary design complements the surrounding office and residential areas that respects the current condition. The Project design includes ground level parking for residents and guests. Consistency with the principles of LU 5.1.9 is ensured through compliance with development standards.

- c. **Land Use Policy LU 6.6.1 (Hospital Supporting Uses Integrated with Residential Neighborhoods):** *Prioritize the accommodation of medical-related and supporting facilities on properties abutting the Hoag Hospital complex [areas designated as "CO-M (0.5)" (Figure LU18, Sub-Area A)] with opportunities for new residential units [areas designated as "RM(18/ac)"] and supporting general and neighborhood-serving retail services ["CG(0.75)" and "CN(0.3)"] respectively. (Imp 2.1)*

The Project proposes a 11-unit apartment building, including one affordable unit for very-low-income households at a site located approximately 0.25 miles from the Hoag Hospital Complex and within the "RM (18/ac)" designation. The Project will provide additional dwelling units in an area with a land use policy to accommodate new opportunities for residential units and a goal of enabling residents to live close to their jobs.

- d. **Land Use Policy LU 6.6.2 (Residential Types):** *Support the development of a mix of residential types consistent with the densities permitted by the General Plan (Figure LU18), which may include single-family attached, townhomes, apartments, and comparable units, provided the overall average project density of 30 to 50 dwelling units per acre is not exceeded. (Imp 2.1)*

The Project proposes a 11-unit apartment building, including one affordable unit for very-low-income households at the subject site that is currently improved with an existing vacant retail commercial building, within the "RM (18/ac)" designation per Figure LU 18 of the General Plan. The density for the site is limited to a maximum site area of 2,420 SF per dwelling unit based on net area of the lot as required by city Zoning Map. Therefore, the maximum number of allowed units for the property per the development standards of the RM zone is six units; however, NMBC section 20.32.040(A) and Government Code Section 65915 (Density Bonus Law) requires that base and bonus units be rounded up.

Therefore, allowing the site to have seven base units. The project base units comply with the maximum allowed density. The applicant proposes a density bonus increase of 46.24% or four units above the base density, in exchange for providing the necessary level of affordable housing pursuant to Government Code Section 65915 (Density Bonus Law) and Newport Beach Municipal Code (NBMC) Section 20.32 (Density Bonus).

- e. ***Land Use Policy LU 6.6.4 (Livable Residential Neighborhood):*** *Work with property owners and encourage the preparation of a master plan for the residential neighborhood defining park and streetscape improvements that provide amenity for local residents and enhance the area's identity. (Imp 3.1, 4.1)*

The property is located within the West Newport Mesa area which has a streetscape master plan in effect. The West Newport Mesa Streetscape Master Plan does not currently include any proposed improvements adjacent to the property, therefore, the Project is not required to contribute towards the streetscape masterplan for the area.

3. The proposed three-story residential apartment complex will be approximately 33 feet in height inclusive of architectural elements and rooftop mechanical equipment. The Multiple Residential (RM) General Plan Land Use Category sets residential design principles to ensure an appropriate aesthetic quality related to building elevations, ground floor treatment, roof design, parking, open space, and amenities. The Project design is consistent with the parameters set forth. The architecture incorporates a modern contemporary style with articulated façade composed of a mix of stucco, synthetic wood siding, and veneer stone. The contemporary design complements the surrounding office and residential areas that respects the current condition. The Project design includes ground level parking for residents and guests. The project design also includes approximately 1,000-square-feet of common open space located on the ground floor. This is comprised of an outdoor garden with a seating area that includes tables and chairs as well as a turf area intended for use by the residents. In addition, each unit includes a private balcony ranging from approximately 60 to 130 square feet each.
4. The Project includes 24 parking spaces where 17 parking spaces are required based on Section 20.32.060 (Parking Requirements in Density Bonus Projects) of NBMC and Government Code Section 65915(p) when the Applicant is seeking a density bonus for a housing development. The Property will provide adequate onsite parking exceeding the minimum required residential standard pursuant to State Density Bonus Law.
5. A conceptual landscape plan was provided showing planting areas in the open space areas, lighting, and pedestrian walkways. A final landscape plan will be reviewed to ensure the Project incorporates non-invasive plan species and efficient irrigation designs. Additionally, the Municipal Operations Division has reviewed the plans for tree planting.
6. The Property is not within the vicinity of any public viewpoint or corridor as identified in Figure NR3 (Coastal Views) of the Natural Resources Element of the General Plan. The

closest designated coastal view road is Superior Avenue, which begins at the south side of the Superior Avenue and Hospital Road intersection over 1,000 feet away from the Property. The nearest public viewpoint to the Property identified in the City's General Plan is over a mile, south at Sunset View Park. Due to the distance and highly urbanized nature of the Project area, public coastal views along this view corridor would not be impacted by the Project.

Finding:

- C. *The proposed development is not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

1. The Project has been designed to ensure that potential conflicts with surrounding uses are minimized to the extent possible to maintain a healthy environment for both surrounding businesses and residents by providing an architecturally pleasing and contemporary design with articulation and high-quality material to enhance the urban environment.
2. The Project has been designed to have adequate, efficient, and safe pedestrian and vehicular access to and from the Property within driveway and parking. The Project is also designed to accommodate and provide safe access for emergency vehicles, delivery trucks, and refuse collections vehicles. Refuse collection is accommodated via an on-site staging area along the private driveway to ensure safe maneuvering by refuse vehicles. Emergency vehicles will have access to the Project via an access point along Placentia Avenue.
3. The Project will comply with all Building, Public Works, Fire Codes, City ordinances, and all conditions of approval.

Affordable Housing Implementation Plan

The proposed Affordable Housing Implementation Plan (AHIP) is consistent with the intent to implement affordable housing goals within the City, pursuant to Government Code Sections 65915-65918 (State Density Bonus Law), and Title 20, Chapter 20.32 (Density Bonus) of the NBMC for the following reasons:

1. Consistent with the requested 46.24% density bonus, one unit (14% of the base units) would be set aside as an affordable unit for a very-low-income household. Very-low-income households are defined as households with 80% or less of the area median income, adjusted for family size.
2. Government Code Section 65915 (Density Bonus Law) and Chapter 20.32 (Density Bonus) of the NBMC provide for an increase in the number of units above the General

Plan and zoning limit for projects that include a minimum of 5% of the base units affordable to very-low-income households earning 80% or less of the area median income. The Project's inclusion of one very-low-income unit, which is 14% of the base unit count of seven units makes the Project eligible for four additional units.

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 15332 under Class 32 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 a Minor Site Development Review, with conditions of approval and Affordable Housing Implementation Plan, which are attached hereto as Exhibits "A" and "B" respectively (PA2023-0053) and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF JANUARY, 2025.



Benjamin M. Zieba, AICP, Zoning Administrator

Attachments: Exhibit "A" – Site Development Review Conditions of Approval
Exhibit "B" – Affordable Housing Implementation Plan, dated October 8, 2024

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, landscape plan, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval). Minor changes to the approved development may be approved by the Community Development Director, pursuant to Newport Beach Municipal Code Section 20.54.070 (Changes to an Approved Project).
2. The project is subject to compliance with all applicable submittals approved by the City of Newport Beach (City) and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Entitlements granted under PA2023-0053 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060(A) (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. *The proposed residential development shall consist of 11 apartment units, inclusive of seven base units and four density bonus units, consistent with the approved Affordable Housing Implementation Plan (AHIP) dated October 8, 2024 and attached as Exhibit "B" of this Resolution.*
5. *A minimum of one apartment unit shall be made affordable to very-low-income households consistent with the approved Affordable Housing Implementation Plan dated October 8, 2024.*
6. *Prior to the issuance of a building permit, an affordable housing agreement shall be executed in a recordable form as required by the City Attorney's Office.*
7. *The total common open space and private open space i.e. private balconies and outdoor garden with seating area, as illustrated on the approved plans shall be provided and maintained for the duration of the Project. The exact mix of amenities may be modified from the original approved plans subject to the approval by the Community Development Director. The total areas of common open space and private open space shall not be reduced.*
8. *Maximum height of the residential structure shall be 33 feet. No building or any portion of structure, architectural feature or mechanical equipment shall exceed 33 feet.*

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9. *The residential parking garage shall have the following features:*
 - a. *A safe, secure and well lighted and signed pedestrian paths for all users.*
 - b. *Adequate and uniform lighting throughout each parking level.*
 - c. *Panic alarms and two-way communication systems in prominent locations on each parking level.*
 10. *The design of the residential structure shall provide adequate noise attenuation between adjacent units (common floor/ceiling) in accordance with the California Building Code (CBC).*
 11. *Residential uses shall be indoor-oriented to reduce noise impingement on outdoor living areas.*
 12. *The Applicant shall comply with all applicable provisions of NBMC Chapter 15.38 (Fair Share Traffic Contribution Ordinance) and Chapter 15.42 (Major Thoroughfare and Bridge Fee Program). Prior to the issuance of a building permit, Fair Share Traffic Fees and Transportation Corridor Agency fees shall be paid for the Project at the fee assessed at the time of payment.*
 13. *Prior to the issuance of a building permit, the Applicant shall pay applicable school fees for the Project.*
 14. *Prior to the issuance of a building permit, the Applicant shall pay applicable property development tax as required pursuant to NBMC Chapter 3.12 (Property Development Tax) for the Project.*
 15. *Any substantial modification to the approved Site Development Review plans, as determined by the Community Development Director, shall require an amendment to this Site Development Review application or the processing of a new application.*
 16. *A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.*
 17. *Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.*
 18. *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.

19. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
20. Prior to the issuance of a building permit, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are "1" or less at all property lines.
21. Prior to the issuance of Final Certificate of Occupancy, the Applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified in conditions of approval.
22. 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.
23. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control), under Sections 10.26.025 (Exterior Noise Standards) and 10.26.030 (Interior Noise Standards), and other applicable noise control requirements of the Newport Beach Municipal Code (NBMC).
24. 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.
25. 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.
26. 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.
27. 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).

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 **The Placentia Avenue Apartments, but not limited to, Site Development Review and Affordable Housing Implementation Plan (PA2023-0053)**. 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. Fire protection systems, and the emergency responder radio system shall be inspected and approved by the Fire Marshall.
30. Prior to the issuance of building permits, a fire master plan shall be submitted and approved by the Fire Marshall.
31. One elevator shall be gurney sized and equipped as a medical emergency elevator as required by CBC Section 3002.
32. Emergency responder radio coverage shall be required to comply with the Newport Beach Fire Department Guideline D.02 "Public Safety Radio Coverage" and CFC Section 510.
33. Emergency power and a Standby Power System shall be required as per CFC Section 604.2.14.
34. An automatic fire sprinkler system shall be installed in accordance with CFC Section 903.2 and shall be provided throughout all buildings.
35. Prior to the issuance of building permits, the Applicant shall provide a plan indicating all fire hydrant locations, laddering opportunities at emergency rescue windows and a fire fighter hose lay demonstration on the exterior of the building.
36. Fire Department access roads shall comply with Newport Beach Fire Guidelines C.01 and C.02.

37. The Project shall comply with the addressing requirements of the NBMC section 9.04.170.

Building Division

38. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
39. The applicant shall employ the following best available control measures (BACMs) to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10% soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

40. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State

Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.

41. Prior to the issuance of a grading permit, the applicant shall prepare and submit a Water Quality Management Plan (WQMP) for the proposed project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
42. A list of "good housekeeping" practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.
43. Obtain approval from Orange County Health for public pools, showers, and restroom areas.

Public Works Department

44. The project driveway approach shall be constructed per City Standard 160, and the approach bottom shall be 26-feet wide.
45. Existing driveways shall be plugged per City standard 165.
46. A minimum 3-foot-wide easement for pedestrian and sidewalk purposes shall be provided to the City to accommodate a minimum 4-foot-wide accessible paths around the sloped portion of the driveway.
47. The parking layout shall comply with City Standard 805. The drive aisles throughout the proposed project shall be a minimum of 26-feet wide. The dead-end drive aisle shall have a dedicated turn around area and minimum 5-foot drive aisle extension.
48. Gated access to the parking area shall be prohibited.
49. Construction staging, storage of materials, construction parking and construction worker queuing shall be prohibited within the public right of way.
50. Reconstruct the curb, gutter and sidewalk along the entire Placentia Avenue frontage per City standards.
51. All improvements shall be constructed as required by Ordinance and the Public Works Department.

52. An encroachment permit shall be required for all work activities within the public right-of-way.
53. All existing overhead utilities shall be undergrounded.
54. All improvements shall comply with the City's sight distance requirement. The wall shall be limited to 30-inches in height maximum and landscaping shall be limited to 24-inches in height maximum within the limited use area. See City Standard 110-L.
55. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way may be required at the discretion of the Public Works Inspector.
56. Prior to the issuance of a building permit, a final Construction Management Plan (CMP) shall be submitted for review and approval by the Community Development Director and City Traffic Engineer. The CMP shall include construction schedule, project phasing, anticipated equipment used during each phase, number of works during each phase, worker parking areas, haul routes, and anticipated street closures.

EXHIBIT "B"

AFFORDABLE HOUSING IMPLEMENTATION PLAN