



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending January 31, 2020.

ZONING ADMINISTRATOR ACTIONS JANUARY 30, 2020

- Item 1: 611 Jasmine, LLC Residential Condominiums Tentative Parcel Map No. NP2019-015 (PA2019-254)
Site Address: 611 Jasmine Avenue
Action: Approved by Resolution No. ZA2020-005 Council District 6
- Item 2: McClain Demolition Coastal Development Permit No. CD2019-056 (PA2019-222)
Site Address: 2172 East Ocean Front
Action: Approved by Resolution No. ZA2020-006 Council District 1
- Item 3: Hoffman Residence Coastal Development Permit No. CD2019-060 (PA2019-241)
Site Address: 298 Lexington Circle
Action: Approved by Resolution No. ZA2020-007 Council District 5
- Item 4: Lisenbee Residence Coastal Development Permit No. CD2019-069 (PA2019-252)
Site Address: 2701 Circle Drive
Action: Approved by Resolution No. ZA2020-008 Council District 3
- Item 5: Wheatley Residence Coastal Development Permit No. CD2019-065 (PA2019-242)
Site Address: 2008 East Ocean Front
Action: Approved by Resolution No. ZA2020-009 Council District 1
- Item 6: Wilson Lot Merger No. LM2019-005 and Coastal Development Permit No. CD2019-064 (PA2019-237)
Site Address: 115 and 119 Via Mentone
Action: Approved by Resolution No. ZA2020-010 Council District 1

ACTION TAKEN BY THE CHIEF OF POLICE

(Non-Hearing Item)

Item 1: The Village Inn Operator License No. OL2019-004 (PA2019-234)
Site Address: 127 Marine Avenue

Action: Approved

Council District 5

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 of time 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. ZA2020-005

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2019-015 FOR TWO-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 611 JASMINE AVENUE (PA2019-254)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 611 Jasmine, LLC, a California limited liability company (Applicant), with respect to property located at 611 Jasmine Avenue, and legally described as Lot 11, Block 636 of the Corona Del Mar Tract, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map for residential condominium purposes. No waivers of development standards are requested. The project site has been cleared of existing improvements and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Title 19 (Subdivisions) are proposed.
3. The subject 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 subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on January 30, 2020, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. 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, 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 percent. Therefore, the proposed parcel map is eligible for the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Newport Beach Municipal Code (NBMC) Title 20 (Planning and Zoning) and is approved based on the following findings per NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps):

Finding:

- A. That the proposed map and the design or improvements of the subdivision are consistent with the General Plan and any applicable specific plan, and with applicable provisions of the Subdivision Map Act and this Subdivision Code.*

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. The project site has been cleared of existing improvements and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current General Plan Land Use Designation (Two-Unit Residential).
2. The subject property is not located within a specific plan area.
3. The project is conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Jasmine Avenue frontage, as needed, as well as the undergrounding of utilities, consistent with the Subdivision Code (Title 19).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a duplex because it is relatively flat and rectangular.
2. The subject property is accessible from Jasmine Avenue and the alley in the rear, and is adequately served by existing utilities.

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 project site has been cleared of existing improvements and a new duplex is under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat on-site.
3. 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.

Fact in Support of Finding:

1. The Tentative Parcel Map is for 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 developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

E. That 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 for 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 judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.

Fact in Support of Finding:

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

Finding:

F. That, 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 subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in a zoning district that permits residential uses.

Finding:

G. That, 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. 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. That 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 Building Code that 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. *That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The proposed duplex is consistent with the R-2 Zoning District, which allows two residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

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 residential building under construction has been designed to have wastewater 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 subject property is not located within the coastal zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2019-015, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. 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 NBMC Title 19 Subdivisions.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JANUARY, 2020.



James Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, 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 permit is final. The building permit for the new construction shall not be final until after recordation of the parcel map.
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 Tentative Parcel Map.
4. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 Subdivisions of the Newport Beach Municipal Code.
5. Prior to recordation of the Parcel Map, an in-lieu park dedication fee shall be assessed for two additional dwelling units.
6. 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 611 Jasmine, LLC Residential Condominiums including, but not limited to Tentative Parcel Map NP2019-015 (PA2019-254). 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.

Public Works

7. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, 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 Subdivisions 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.**

8. 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.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. All damaged sidewalk panels, curb, gutter, and street along the Jasmine Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
11. All existing overhead utilities shall be undergrounded.
12. No above ground improvements will be permitted within the 5-foot rear alley setback. Smooth transitions between neighboring properties shall be provided.
13. Remove the existing brick within the Jasmine Avenue public right-of-way. New sod or low groundcovers of the type approved by the City shall be installed throughout the Jasmine Avenue parkway fronting the development site.
14. A new 36-inch box street tree shall be installed along the Jasmine Avenue public right-of-way.
15. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
16. An encroachment permit shall be required for all work activities within the public right-of-way.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. All existing private improvements within the Jasmine Avenue right of way shall be removed, including but not limited to, walls, decorative walkways and loose rock/gravel.
19. In case of damage done to public improvements surrounding the development site by private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.

RESOLUTION NO. ZA2020-006

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-056 TO DEMOLISH AN EXISTING SINGLE-FAMILY DWELLING LOCATED AT 2172 EAST OCEAN FRONT (PA2019-222)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Carlton Graham, with respect to property located at 2172 East Ocean Front and legally described as Lot 19 of Block E, requesting approval of a coastal development permit.
2. The applicant requests a coastal development permit to demolish an existing 3,350-square-foot, single-family dwelling and attached three-car garage. The site is proposed to be developed with landscaping and hardscaping to serve as a yard area for 2168 East Ocean Front.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan (CLUP) category is Single-Unit Residential – 10.0 – 19.9 DU/AC (RSD-C) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. The proposed project will result in the reduction of one housing unit on the subject property and is subject to a CDP. The CDP application was deemed complete on December 6, 2019. The property is therefore not subject to the provisions of Senate Bill 330, which became effective on January 1, 2020.
6. A public hearing was held on January 30, 2020, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities).

2. Class 1 includes the demolition and removal of small structures including single-family dwellings. The proposed project includes the demolition of one existing single-family dwelling located in the R-1 Coastal Zoning District.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The subject property is currently developed with a single-family dwelling on an existing lot designated for residential development by the Local Coastal Program. The project applicant requests to demolish the existing single-family dwelling. After the demolition of the existing dwelling, the site will be landscaped to control erosion. The project will include 1,240 square feet of landscaping, which includes a large artificial lawn. There is also a proposed garden terrace and a paved area abutting East Ocean Front Alley for parking. Per Section 21.30.085 of the Local Coastal Program, landscaping has been conditioned to have low water demand and be drought tolerant. The planting of invasive species shall be prohibited. Any subsequent construction of a replacement dwelling will require a separate coastal development permit at a later date.
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The property is located within 100 feet of the Newport Jetty, which abuts the Newport Bay, and approximately 450 feet from the mean high water line, which abuts the ocean. The project design addresses water quality with a construction erosion control plan that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
4. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and

prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

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 on the Balboa Peninsula between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is the demolition of an existing single-family residence and the site is to be developed with landscape and hardscape. 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 site is sited so as not to block or impede existing public access opportunities. Vertical access to the bay front is available to the east of the subject property on Channel Road.
2. The project site is located adjacent to the West Jetty View Park, which is identified as public view point and public beach access point in the Coastal Land Use Plan (CLUP). Additionally, the project abuts public beaches to the south and the east, as identified in the CLUP. The project site may be located within the viewshed of distant public viewing areas. However, the project is for a demolition of an existing single-family dwelling. The site is to be developed with landscaping and hardscaping to serve as a yard area for 2168 East Ocean Front. Any future development of the site with a replacement dwelling will be required to comply with all applicable Local Coastal Program development standards. 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.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project exempt from the California Environmental Quality Act pursuant to 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 Coastal Development Permit No. CD2019-056, subject to the conditions set forth in Exhibit "A," which is attached here to and incorporated by reference.

3. This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Implementation Plan) of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JANUARY, 2020.



James Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and landscape plans 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. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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.
5. Prior to 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.
6. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
7. Prior to 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.
8. 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. This letter shall be scanned into the plan set prior to building permit issuance.
9. Construction activities shall comply with Newport Beach Municipal Code (NBMC) Section 10.28.040, which restricts hours of noise-generating construction activities to

between the hours of 7 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

10. The development shall be in substantial conformance with the approved demolition plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
11. 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, wetland or their buffers.
12. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
13. 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.
14. 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.
15. 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.
16. 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.

17. Construction staging, storage and/or access is not allowed to occur on or from the adjacent sandy beach or West Jetty View Park.
18. 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.
19. Landscaping of the site shall conform to the requirements of Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping) of the Local Coastal Program Implementation Plan. Plant materials shall be selected for low water-demand and drought tolerance, and the planting of invasive species shall be prohibited.
20. Landscaping of the site shall conform to Section 14.17 (Water Efficient Landscape Ordinance) of the Newport Beach Municipal Code.
21. All landscape materials and irrigations systems shall be maintained in accordance with the approved erosion control plan. All landscaped areas shall be maintained in a healthy and growing conditions 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.
22. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
23. 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.
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. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with the removal of any development not in compliance with and authorized by Appendix C (Oceanfront Encroachment Policy Guidelines) of the certified Local Coastal Program seaward of the rear property line within a prolongation of the side property lines of the subject property.

26. Coastal Development Permit No. CD2019-056 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

27. 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 Mclain Demolition including, but not limited to, Coastal Development Permit No. CD2019-056 (PA2019-222). 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.

RESOLUTION NO. ZA2020-007

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-060 TO REMOVE AN EXISTING SINGLE-STORY, SINGLE-FAMILY MANUFACTURED HOME AND INSTALL A NEW SINGLE-STORY, SINGLE-FAMILY MANUFACTURED HOME LOCATED AT 298 LEXINGTON CIRCLE (PA2019-241)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steve Almquist ("Applicant") on behalf of Susan Hoffman ("Manufactured Home Owner"), with respect to a manufactured home site located at 298 Lexington Circle, requesting approval of a coastal development permit.
2. The site is located within Bayside Village Mobile Home Park, legally described as Parcel 2 of Resubdivision No. 0995.
3. The Applicant proposes the removal of an existing single-story, single-family manufactured home and the installation of a new single-story, single-family manufactured home. The development also includes a single-car carport, entry stairs and landings, hardscape, and landscape. The development complies with all applicable Municipal Code Standards and no deviations are requested. All improvements are shown on the attached project plans
4. The subject property is designated Multiple-Unit Residential ("RM") by the General Plan Land Use Element and is located within the Bayside Village Mobile Home Park Planned Community ("PC-1") Zoning District.
5. The subject site is located within the coastal zone. The Coastal Land Use Plan category is Multiple-Unit Residential – 10.0 – 19.9 DU/AC ("RM-C") and it is located within the Bayside Village Mobile Home Park ("PC-1") Coastal Zone District.
6. A public hearing was held on January 30, 2020, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. 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, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act ("CEQA") under Class 3 (New Construction or

Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the removal of one single-family manufactured home and the installation of a new single-family manufactured home with accessory structures and improvements.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable development standards identified by the PC-1 Development Plan and the proposed design is in substantial conformance with the approved site plan.
 - a. The project is within the confines of the manufactured home site lines.
 - b. The project has been reviewed and approved by the Manufactured Home Owner, as evidenced by the Application for Permit to Construct included with the application.
 - c. The project includes a parking area for one vehicle, complying with the minimum parking requirement per site.
2. The Bayside Village Mobile Home Park is predominantly developed with single- and two-story, mobile/manufactured homes. The proposed design, bulk, and scale of the development is consistent with the existing pattern of development and expected future development consistent with applicable development standards.
3. The Bayside Village Mobile Home Park is comprised of Parcel 1 (south) and Parcel 2 (north) of Parcel Map No. 93-111. The project site is centrally located within the south parcel, surrounded by other homes, and more than 600 feet from Newport Bay. The project site is at an approximate elevation of 15 feet based on the North American Vertical Datum of 1988 (NAVD 88).
4. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features

designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.

5. The building codes for construction and installation of a manufactured home are contained within the California Health and Safety Code. The State of California Department of Housing and Community Development ("HCD") issues all construction permits. The applicant has provided evidence of approval from the State, as well as the Manufactured Home Owner.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline, and the existing residential development neither provides nor inhibits public coastal access. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family manufactured home within an existing mobile/manufactured home park with a new single-family manufactured home. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.
2. Bayside Drive bisects the northern and southern parcels of the Bayside Village Mobile Home Park and provides access to the Newport Dunes, which houses several coastal recreational opportunities for the public's use.
3. The mobile/manufactured home park abuts Coast Highway, a public coastal view road. It is separated from the public right-of-way by an existing site wall that is approximately 7 feet tall and provides for limited views across. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family manufactured home with a new single-family manufactured home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-060, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. 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 NBMC Title 21 (Local Coastal Implementation Plan). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JANUARY, 2020.



James Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
4. Prior to the issuance of a building permit, the property owner shall sign 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, judgements, 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.
5. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
6. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
7. Trash and debris shall be disposed 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.
8. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

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9. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 10. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
 11. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
 12. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
 13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 14. This Coastal Development Permit No. CD2019-060 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions), unless an extension is otherwise granted.
 15. To the fullest extent permitted by law, 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 Hoffman Residence including, but not limited to, Coastal Development Permit No. CD2019-060 (PA2019-241). 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.

RESOLUTION NO. ZA2020-008

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-069 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 2701 CIRCLE DRIVE (PA2019-252)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by architect Tyler Wilson, Brandon Architects, with respect to property located at 2701 Circle Drive, and legally described as Lot 27, Tract 1102 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing one-story, single-family residence and construct a new three-story 5,560-square-foot, single-family residence with an attached 671-square-foot, three-car garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
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 the Coastal Zoning District is R-1 (Single-Unit Residential).
5. A public hearing was held on January 30, 2020 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. 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 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. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project includes the demolition of an existing single-family residence and construction of a new 5,560-square-foot, single-family residence with an attached 671-square-foot, three-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a

state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits) 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 structure conforms to all applicable development standards including, but not limited to, site coverage limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 10,600 square feet and the proposed gross floor area is 6,230 square feet.
 - b. The proposed development will provide the required setbacks, which are 10 feet along the front property line, 4 feet along the side property lines, and 10 feet along the rear property line.
 - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade at every point as required by Zoning Code Section 20.30.050(B)(3) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for three vehicles, which complies with the minimum three-space parking requirement for single-family residences with more than 4,000 square feet of livable floor area.
2. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood's pattern of development and expected future development consistent with applicable development standards.
3. The project is located on a relatively level building pad elevation of approximately 13.30 feet North American Vertical Datum of 1988 (NAVD 88) on a lot located approximately 430 feet from the bayfront, and separated from the water by Bay Shore Drive, Circle Drive and several rows of existing residential development. The finished floor elevation of the proposed single-family residence is 13.30 feet NAVD 88, which exceeds the minimum 9.0-foot NAVD 88 elevation standard for new structures.

The project will be required to comply with the California Building Code (CBC) and Building Division standards and policies. A Geotechnical Engineering Investigation, dated October 28, 2019, was prepared by Coast Geotechnical Inc. for the project. The investigation

concluded the site offers favorable conditions for redevelopment provided construction is performed in accordance with report recommendations.

4. 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.
5. As conditioned, the property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) prior to the issuance of building permits for construction.
6. The project design addresses water quality during construction with a construction erosion control plan. All new construction resulting from the project will tie into an existing post-construction drainage system that includes features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The property is not located near coastal view roads and is not located near any identified public viewpoints; therefore, the project will not negatively impact public coastal views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline in the private community of Bayshores. Developed in 1941, Bayshores is a 258-lot, single-family, gated community located on the Lido Channel southwest of Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located within the community. The community is accessible from Coast Highway via Bay Shore Drive, a private street. The shoreline is on the south and east sides of the community and consists of bulkheads and two small sandy beaches.
2. Coastal Land Use Plan Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. 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 replaces an existing single-family residence located on a coastal lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.

3. The residential lot does not currently provide nor does it inhibit public coastal access. Vertical and lateral access to the bay front is available adjacent to the Bayshores community at the Balboa Bay Club, approximately 325 feet from the subject property.
4. The project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program maps. The project site may be located within the viewshed of distant public viewing areas; however, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards. It will also maintain a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

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 ("CEQA") 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 Coastal Development Permit No. CD2019-069, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 30th DAY OF JANUARY, 2020.



James Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Prior to the issuance of a building permit, the property owner shall sign 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, judgements, 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.
4. 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. No demolition or construction materials shall be stored on public property.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. 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.

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- 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.
7. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
 8. 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.
 9. 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.
 10. 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.
 11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 12. 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.
 13. 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.
 14. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
 15. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
 16. Prior to 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.

17. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
18. 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.
19. Landscaping of the site shall conform to the requirements of Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping) of the Local Coastal Program Implementation Plan. Plant materials shall be selected for low water-demand and drought tolerance, and the planting of invasive species shall be prohibited.
20. Landscaping of the site shall conform to Section 14.17 (Water Efficient Landscape Ordinance) of the Newport Beach Municipal Code.
21. 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.
22. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
23. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
24. Coastal Development Permit No. CD2019-069 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
25. 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 *Lisenbee Residence including, but not limited to Coastal Development*

Permit No. CD2019-069 (PA2019-252). 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.

RESOLUTION NO. ZA2020-009

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-065 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 2008 EAST OCEAN FRONT (PA2019-242)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, with respect to property located at 2008 East Ocean Front, and legally described as Lot 3 and the northwesterly one-half of Lot 4 and the northwesterly 4 feet of the southeasterly one-half of Lot 4 in Block D of Tract No. 518 requesting approval of a coastal development permit.
2. The applicant proposes to demolish an existing single-family residence and construct a new 4,890-square-foot, single-family residence with an attached 708-square-foot, three-car garage.
3. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached) (10.0 - 19.9 DU/AC) and the Coastal Zoning District is R-1 (Single-Unit Residential).
5. A public hearing was held on January 30, 2020 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. 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 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. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project includes the demolition of an existing single-family residence and construction of a new 4,890-square-foot, single-family residence with an attached 708-square-foot, three-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a

state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed structure conforms to all applicable development standards including, but not limited to, floor area limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 7,793 square feet and the proposed gross floor area is 5,598 square feet.
 - b. The proposed development will provide the required setbacks, which are 10 feet along the front property line abutting the beach, 4 feet along the side property lines, and 0 feet along the rear property line abutting the alley.
 - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade at every point as required by Zoning Code Section 20.30.050(B)(3) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for three vehicles, which complies with the minimum three-space parking requirement for single-family residences with more than 4,000 square feet of livable floor area.
2. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood's pattern of development and expected future development consistent with applicable development standards as the neighborhood is predominantly developed with two- and three-story, single-family residences.
3. The property is an oceanfront lot that is separated from the ocean by sandy beach with an average width of more than 500 feet. A Coastal Hazards and Wave Runup Study was prepared for the project by GeoSoils, Inc., dated October 22, 2019. The report concludes that the long-term shoreline erosion rate is small, if any long-term erosion occurs at all, and it is unlikely that the mean high tide line will reach within 350 feet of the property over the life of the structure. A beach width of 200 feet is recognized by coastal engineers as sufficiently wide to protect landward development. The GeoSoils study also concludes that coastal hazards, including wave runup and overtopping, will not impact the property over the next 75 years and there is no anticipated need for a shore protection device over the life of the proposed development.

4. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv), 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 property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
5. The finished floor elevation of the first floor of the proposed structure is 17.5 feet North American Vertical Datum of 1988 (NAVD 88), which exceeds the minimum 9.0-foot (NAVD 88) elevation standard for new structures and exceeds the minimum requirements for sea level rise (10.6 feet NAVD 88).
6. The property is located 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 building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
7. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
8. The project design addresses water quality with a construction erosion control plan that outlines temporary best management practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
9. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. The property is not located near coastal view roads and is not located near any identified public viewpoints; therefore, the project will not negatively impact public coastal views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities. The proposed residential development neither provides nor inhibits public coastal access. 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 replacement of an existing single-family residence with a new single-family residence. 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.
2. The project is designed and sited so as not to block or impede existing public access opportunities and occurs within the confines of private property. Existing coastal access conditions will not be affected by the proposed development. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the beach and water.

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 ("CEQA") 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 Coastal Development Permit No. CD2019-065, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 30th DAY OF JANUARY, 2020.

Jim Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. Coastal Development Permit No. CD2019-065 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. Prior to the issuance of building permit, 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.
5. Prior to the issuance of a building permit, the property owner shall sign 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, judgements, 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.
6. 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. No demolition or construction materials shall be stored on public property.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. This Coastal Development Permit does not authorize any development seaward of the private property.

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9. 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.
 10. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
 11. 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.
 12. 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.
 13. 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.
 14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
 15. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 16. 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.

17. 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.
18. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
20. Prior to 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.
21. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
22. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved WQHP/WQMP and any changes could require separate review and approval by the Building Division.
23. 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.
24. Landscaping of the site shall conform to the requirements of Section 21.30.075 (Landscaping) and Section 21.30.085 (Water Efficient Landscaping) of the Local Coastal Program Implementation Plan. Plant materials shall be selected for low water-demand and drought tolerance, and the planting of invasive species shall be prohibited.
25. Landscaping of the site shall conform to Section 14.17 (Water Efficient Landscape Ordinance) of the Newport Beach Municipal Code.
26. 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.

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27. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 28. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 29. This Coastal Development Permit No. CD2019-065 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
 30. 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 **Wheatley Residence including, but not limited to Coastal Development Permit No. CD2019-065 (PA2019-242)**. 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.
 31. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with the removal of any development not in compliance with and authorized by Appendix C (Oceanfront Encroachment Policy Guidelines) of the certified Local Coastal Program seaward of the rear property line within a prolongation of the side property lines of the subject property.

RESOLUTION NO. ZA2020-010

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2019-005, A WAIVER OF THE PARCEL MAP REQUIREMENT, AND COASTAL DEVELOPMENT PERMIT NO. CD2019-064 FOR A LOT MERGER LOCATED AT 115 AND 119 VIA MENTONE (PA2019-237)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Toal Engineering, Inc. with respect to property located at 115 and 119 Via Mentone requesting approval of a Lot Merger and Coastal Development Permit. The property at 115 Via Mentone is legally described as Lot 594 and the southwesterly $\frac{1}{2}$ of Lot 595 of Tract No. 907. The lot at 119 Via Mentone is legally described as the northeasterly $\frac{1}{2}$ of Lot 595 and all of Lot 596 of Tract No. 907.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for properties under common ownership. The applicant also requests an associated coastal development permit for the lot merger.
3. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – 10.0-19.9 DU/AC (RSD-C) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
5. The lot merger will result in the reduction of one housing unit on the subject property and is therefore subject to a Coastal Development Permit. The lot merger application was deemed complete and Categorical Exclusion Orders (CEO2019080 and CEO2019081) were issued on December 5, 2019 for the demolition of the two existing residences. The property is therefore not subject to the provisions of Senate Bill 330, which became effective on January 1, 2020.
6. A public hearing was held on January 30, 2020 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. 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.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

SECTION 3. REQUIRED FINDINGS.

Lot Merger

In accordance with Section 19.68.030 (Lot Mergers) and 19.08.030 (Waiver of Parcel Map Requirement) of the Newport Beach Municipal Code, 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 proposed lot merger to combine three complete lots by removing the interior lot lines between them will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. Any future development on the proposed parcel will be subject to the Zoning Code development standards, which are 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 three lots to be merged are under common fee ownership.

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 merged parcels will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide areas appropriate for a detached single-family residence located on a single lot.
2. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The Coastal Land Use Plan designates this site as Single-Unit Residential Detached (RSD-C), which provides for density ranges from 10.0 – 19.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
3. The subject property is not located within a Specific Plan area.
4. Section 20.18.030 of the Zoning Code and Section 20.18.030 of the LCP Implementation Plan establish minimum lot area and width requirements. The proposed merger would result in a 7,920-square-foot parcel that is in conformance to the minimum 5,000-square-foot interior lot area standard of the Zoning Code. Additionally, the proposed merger would create one approximately 90-foot-wide parcel, exceeding the minimum 50-foot interior lot width standard of the Zoning Code.
5. The existing lots do not meet the minimum width or lot area requirements of the Zoning code, as the individual lots are approximately 30 feet wide and contain approximately 2,640 square feet. Merging the three lots would create one parcel that meets the minimum requirements of the Zoning Code and LCP Implementation Plan for lot width and 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. Legal access is provided from Via Mentone, and will remain unchanged. The site does not currently provide access to any other properties. Thus, no adjoining parcels will be deprived of legal access as a result of the merger.

Finding:

- E. The lots as merged 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 this findings, the review authority may consider the following:*
- a. 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.*
 - b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - c. 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. Properties in the vicinity consist of lots of varying sizes. Although the proposed lot merger will create a larger lot, it will not create an excessively large lot in comparison to other conforming lots in the area. Existing lots in the vicinity that have similar lot area to the proposed lot include 124 Via Mentone (9,898 square feet), 114 Via Koron (6,600 square feet) and 111 Via Orvieto (6,600 square feet).
2. The proposed lot width is approximately 90 feet, which will not create an excessively wide lot in comparison to other existing lots in the area. Existing lots in the vicinity with similar lot width to the proposed lot include 124 Via Mentone (approximately 116 feet), 114 Via Koron (approximately 75 feet) and 111 Via Orvieto (approximately 75 feet).
3. The existing lots do not meet the minimum width or lot area requirements of the Zoning code, as the lots are approximately 30 feet wide and contain approximately 2,640 square feet each. Merging the three lots would create one parcel that meets the minimum requirements of the Zoning Code and LCP Implementation Plan for lot width and area.
4. Although the current configuration contains three lots, the property is used as two individual sites, each containing one single-family residence on one and one-half of the underlying lots. The proposed merger will not result in a visible change in character to the neighborhood and will allow the property to be used for single-family purposes, consistent with its Zoning and General Plan designation.
5. Orientation and access to the parcel would remain from Via Mentone. Thus, resulting lot configuration will not change the existing pattern of development in the area.

Waiver of Parcel Map

In accordance with Section 19.08.30.A.3 (Waiver of Parcel Map Requirement) of the Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding 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 proposed lot merger would remove the existing interior lot lines and allow the property to be utilized as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.
2. The subject property is not subject to a Specific Plan. The property complies with the requirements of Title 21 LCP Implementation Plan.
3. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
4. The subject property is accessible from Via Mentone. The site is served by all of the necessary public utilities.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The proposed lot merger is for development purposes and meets all of the requirements of the Local Coastal Program including Section 21.30.025 Coastal Subdivisions.

2. The lot merger is for a property within a developed neighborhood. The lots are currently utilized as two individual building sites and do not provide public access or views of the sea or shoreline.
3. The subject site is located between the nearest public road and the sea or shoreline. The site does not currently provide vertical or lateral access to the waterfront, nor would it provide access under proposed conditions. Vertical access to the bay is available via street ends through the neighborhood. The project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

Finding:

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

Facts in Support of Finding:

1. The subject site is located between the nearest public road and the sea or shoreline. The site does not currently provide vertical or lateral access to the waterfront, nor would it provide access under proposed conditions. Vertical access to the bay is available via street ends through the neighborhood. The project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. The lots are currently utilized as two individual building sites and do not provide public access or views of the sea or shoreline.
3. The project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program maps. The project site may be located within the viewshed of distant public viewing areas; however, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards. It will also maintain a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15315 (Minor Land Divisions) under Class 15 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 Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2019-005 and Coastal Development Permit No. CD2019-064 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, and Title 19 Subdivisions, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JANUARY, 2020.



James Campbell, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

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.
4. The map shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid.
5. Prior to the issuance of building permits for construction across the existing interior lot lines, recordation of the lot merger documents with the County Recorder shall be required.
6. *Prior to the recordation of the lot merger, a demolition permit for the existing development on the project site shall be issued and finalized.*
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
8. 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.
9. 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.
10. 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 Wilson Lot Merger including, but not limited to, Lot Merger No. LM2019-005 and Coastal Development Permit No. CD2019-064 (PA2019-237). 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.



OPERATOR LICENSE APPROVAL LETTER

POLICE DEPARTMENT
870 SANTA BARBARA DRIVE
NEWPORT BEACH, CA 92660
(949) 644-3681 FAX (949) 644-3794
www.nbpd.org

VIA EMAIL

January 29, 2020

Dan Miller
127 Marine Avenue
Newport Beach, CA
danvibdt@gmail.com

Application No.	Operator License No. OL2019-004
Owner/Applicant	Dan Miller
Location/Business Name	The Village Inn
Site Address	127 Marine Avenue
LEGAL DESCRIPTION	Balboa Island Sec 4 Lot 15 Blk & Lot 16 Blk 1 Ex E 10 Ft Lots 15

On January 29, 2020, the Chief of Police approved the following: An operator license to allow The Village Inn to operate a food service restaurant with late hours and a Type 47 (On-Sale General, Eating Place) and Type 58 (Caterer's Permit) Alcoholic Beverage Control (ABC) license. The interior of The Village Inn operates from 7:00 a.m. to midnight, daily. The outdoor dining area is allowed to operate from 7:00 a.m. to 9:00 p.m., daily, except for Fridays and Saturdays between Memorial Day weekend and Labor Day, on Federal holidays, and during community events when the allowed outdoor dining areas hours shall be 7:00 a.m. to 10:00 p.m. The Village Inn offers live entertainment, which is limited to 10:00 p.m. on nights before a school day, and limited to midnight on "non-school" nights and on all Fridays and Saturdays. A maximum of four musicians at any one time is permitted. Live entertainment is not permitted on the outdoor dining area. This Operator License is required pursuant to Newport Beach Municipal Code (NBMC) Chapter 5.25.

REQUIRED FINDINGS

The Chief of Police has made the following findings as required by NBMC 5.25.050(B):

Finding:

- A. *The business or enterprise is located in a zone permitting the proposed use under Title 20 of the NBMC, and is subject to such use permits as may be required.*

Facts in Support of Finding:

1. Conditional Use Permit No. 2009-002 was approved by the Planning Commission on March 19, 2009, which allowed an existing full service restaurant to convert an existing dining room into bar seating, and for the operation of an existing alcoholic beverage outlet. Subsequent to this approval, Conditional Use Permit No. 2016-012 was approved by the City Council on February 14, 2017, which permitted an outdoor dining area associated with the existing restaurant. The interior of the restaurant is permitted to operate from 7:00 a.m. to midnight, daily. The outdoor dining area is permitted to operate from 7:00 a.m. to 9:00 p.m. daily, except on Fridays and Saturdays between memorial Day weekend and Labor Day, on Federal holidays, and during community events when the outdoor dining area hours shall be 7:00 a.m. to 10:00 p.m.
2. A Live Entertainment Permit was issued on July 3, 2012 which authorized live entertainment activities at the existing restaurant. Conditional Use Permit No. 2016-012 further conditioned that live entertainment shall be limited to 10:00 p.m. on nights before a school day, as calendared by the Newport Mesa Unified School District, and limited to midnight on "non-school" nights and on all Fridays and Saturdays.
3. A food service restaurant with alcohol service is a permitted use in the Mixed-Use Water Related (MU-W2) zoning district through the approval of a conditional use permit.

Finding:

- B. In the case of a business or enterprise offering "Entertainment," as defined, the premises meets all of the criteria in Chapter 5.28.040.B.2-7.*

Facts in Support of Finding:

1. The Village Inn provides live entertainment in the form of musical performances, with up to a four-piece band and no percussion. Use Permit No. 2016-012 permits up to a maximum of four musicians and/or vocalists using amplified instruments and microphones at any time. The proposed live entertainment activities at the restaurant meet the definition of "Entertainment" as defined in NBMC Chapter 5.28, and complies with the conditions of the Use Permit.
2. The proposed establishment is required to comply with the additional regulations per Section 5.28.041(Additional Regulations) of Chapter 5.28 (Live entertainment Establishments) of the Municipal Code.
3. Signage for the proposed establishment will be required to comply with provisions of Chapter 20.42 of the Newport Beach Municipal Code.

4. The entire interior portion of the viewing area where entertainment will occur is open and visible from aisles and public areas within the restaurant.
5. The outdoor dining area has noise attenuated glass doors that shall close prior to the commencement of live entertainment offerings. The doors shall remain closed during the performance and no customers shall remain within the outdoor dining area when it is closed. Additionally, interior acoustical absorption panels were installed per the Acoustical Evaluation and Design Recommendations dated March 20, 2016 by KFEB Acoustics. If noise from live entertainment becomes an issue, the applicant is conditioned to work with the Director of Community Development to provide sound barriers or screens and prevent further issues.
6. A manager will be present on-site at all times when entertainment is performed at the establishment. Live entertainment is limited to 10:00 p.m. on nights before a school day as calendared by the Newport Mesa Unified School District, and limited to midnight on "non-school" nights and on all Fridays and Saturdays, per Condition of Approval No. 15 of CUP2016-012.

Finding:

- C. *The proposed site plan and improvements are consistent with the use and the plan of operations.*

Facts in Support of Finding:

1. The existing restaurant was established in 1933 when the City did not require a use permit. In 2002, a Live Entertainment Permit was issued which required all exterior windows and doors to be closed during performances. On March 19, 2009, the Planning Commission approved Use Permit No. UP2009-002, authorizing the remodel of the restaurant which included converting a portion of the dining room to bar seating. The use permit limited the hours of operation to midnight, where the restaurant was previously closing at 2:00 a.m. On February 14, 2017, the City Council approved Use Permit No. UP2016-012, which permitted a new outdoor dining area associated with the existing restaurant.
2. The proposed site plan reflects the outdoor dining area which was approved by the City Council through Use Permit No. UP2016-012. As conditioned, the outdoor dining area and its noise attenuated glass doors shall close prior to the commencement of live entertainment. Upon closing the outdoor dining area and when live entertainment is offered, the noise attenuated glass doors which access the outdoor dining area shall be closed and no customers shall remain within the outdoor dining area when it is closed.

Finding:

- D. *The plan of operations as proposed, with attached conditions in place, is adequate in light of the neighborhood in which the operation is located and supports the public health, safety, and welfare of the community.*

Facts in Support of Finding:

1. Restaurant personnel at the entrance will be responsible for regulating the loitering, noise, elicit activity, and other objectionable conditions that may occur outside of the restaurant.
2. The restaurant and outdoor dining area has been conditioned to prevent excessive noise issues for the neighborhood. The outdoor dining area is not to have exterior amplified music, sound system, televisions, or outside paging system. During live entertainment performances, the outdoor dining area and its noise attenuated glass doors shall close prior to the commencement of the entertainment and shall remain closed. During performances, no customers shall remain within the outdoor dining area.
3. The business will be required to comply with the hours of operation as specified in the conditions of approval for the operator license.

CONDITIONS OF APPROVAL

In no case shall the conditions be inconsistent with, or less restrictive than, those required by any applicable use permit. The following operational conditions are reiterated from the Conditional Use Permit and the applicant shall comply with the conditions of approval of Conditional Use Permit No. UP2016-012 (PA2015-016).

1. The business shall comply with Title 20 (Zoning Code) and any other applicable provisions of the Newport Beach Municipal Code.
2. 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 Use Permit.
3. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 (Community Noise Control), all other applicable noise control requirements in the NBMC and Condition No. 8 of the 2012 Live Entertainment Permit; however, NBMC Section 10.26.035(L) shall not apply.
4. No exterior amplified music, sound system, televisions, outside paging system shall be utilized in conjunction with the outdoor dining area.

5. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within twenty (20) feet of the premises.
6. A Special Events Permit is required for any event or promotional activity outside the normal operational 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 NBMC to require such permits.
7. The hours of the outdoor dining area shall be limited to 7:00 a.m. to 9:00 p.m. daily, except Fridays and Saturdays between Memorial Day weekend and Labor Day, on Federal holidays, and during community events when the outdoor dining area hours shall be 7:00 a.m. to 10:00 p.m. The outdoor dining area and its noise attenuated glass doors shall close prior to the commencement of live entertainment. Upon closing the outdoor dining area and when live entertainment is offered, the noise attenuated glass doors which access the outdoor dining area shall be closed and no customers shall remain within the outdoor dining area when it is closed.
8. Live entertainment shall be limited to 10:00 p.m. on nights before a school day, as calendared by the Newport Mesa Unified School District, and limited to midnight on "non-school" nights and on all Fridays and Saturdays.
9. On New Year's Eve, the restaurant shall be permitted to operate until 1:00 a.m. on January 1st. Live entertainment and alcoholic beverage service shall cease at or before 12:30 a.m.
10. The outdoor seating area shall not be permanently enclosed; however, roll-down plastic shielding for protection from weather elements that can be rolled up after hours is allowed. Canvas or other "temporary materials" that are affixed shall be prohibited.
11. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
12. There shall be no reduced price alcoholic beverage promotions offered by the restaurant after 9:00 p.m.
13. Food service from the regular menu shall be available to patrons up to thirty (30) minutes before the schedule closing time of the restaurant.

14. Deliveries and refuse collection for the restaurant shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily.
15. Televisions shall not be oriented for the purposes of viewing from the public right of way.
16. Applicant may encroach 3 feet into the right of way on Park Avenue with an awning or other similar cover over the outdoor dining area.
17. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training program must be updated every three years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
18. The applicant must comply with all conditions of the Alcoholic Beverage Control License.
19. An approved security plan is attached to this document. Any revisions or updates to the security plan shall be submitted to the Police Department.
20. In accordance with Section 5.28.080 (Revocation, Suspension, or Modification of License for Cause), this Operator License may be modified or revoked by the Chief of Police should they determine 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.
21. Operator License No. OL2019-004 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.
22. Should the property be sold or otherwise come under different ownership, a new Operator License shall be required.
23. 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 Village Inn including, but not limited to, the Operator License No. OL2019-004 and Conditional Use Permit No. UP2016-012 (PA2015-016). 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.

OPERATOR LICENSE NONTRANSFERABLE

No operator license issued pursuant to this chapter shall be sold, transferred, or assigned by any license holder, or by operation of law, to any other person, group, partnership, corporation or any other entity, and any such sale, transfer or assignment, or attempted sale, transfer or assignment, shall be deemed to constitute a voluntary surrender of such license, and such license shall be, thereafter, null and void. A license held by an individual in a corporation or partnership is subject to the same rules of transferability as contained above. License shall be valid only for the exact location specified in the license.

PUBLIC NOTICE

Notice of this application was mailed to all owners of property within 300 feet of the boundaries of the site (excluding intervening rights-of-way and waterways) including the applicant and posted on the subject property at least 21 days prior to the decision date, consistent with the provisions of the Municipal Code.

APPEAL PERIOD

The determination of the Chief of Police to deny or to place conditions upon the approval of an operator license shall be appealable by the applicant or any interested party. Such appeal shall be made in writing to the City Manager, within fifteen (15) days of the postmark date of the Chief of Police's notice of decision. For additional information on filing an appeal, contact the Planning Department at 949 644-3200.

REVOCAION, SUSPENSION OR MODIFICATION OF LICENSE FOR CAUSE

The Chief of Police may commence a process to revoke, suspend or modify an operator license issued under the provisions of this chapter should there be reasonable suspicion of any of the following:

- A. The licensee has ceased to meet the requirements for issuance of license;
- B. The applicant gave materially false, fraudulent or misleading information within the application;

- C. Impacts emanating from the establishment for which the license was issued has substantially interfered with the peace and quiet of the neighborhood;
- D. The licensed business or activity has operated in violation of any of the requirements of this chapter, the license as issued, or any condition thereof. The Chief of Police shall notify the operator of the commencement of such revocation, suspension or modification process and shall conduct an investigation to determine if, and to what degree, one or more of the foregoing has occurred. Upon completion of the investigation, the Chief of Police may add, delete or modify the license conditions. The Chief of Police shall notify the applicant regarding the determination of the operator license, on the outcome of the investigation, and the action taken. The applicant or any interested party may appeal a determination or an added or modified condition of approval to City Manager in the manner set forth in Section 5.25.050(C) and (D).

By: 

Jon T. Lewis
CHIEF OF POLICE

Attachments:

- PD 1 City Council Resolution No. 2017-009 Approving Conditional Use Permit No. UP2016-012
- PD 2 Project Plans
- PD 3 Security Plan

cc:

Charles Kinstler
127 Marine Avenue
Newport Beach, CA 92662

Attachment No. PD 1

City Council Resolution No. 2017-009
Approving Conditional Use Permit No.
UP2016-012

RESOLUTION NO. 2017-9**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, UPHOLDING THE PLANNING COMMISSION'S APPROVAL OF USE PERMIT NO. UP2016-012 WITH MODIFIED CONDITIONS OF APPROVAL TO ESTABLISH AN OUTDOOR DINING AREA ASSOCIATED WITH AN EXISTING RESTAURANT AT 127 MARINE AVENUE (PA2015-016)**

WHEREAS, an application was filed by Dan Miller, with respect to property located at 127 Marine Avenue, and legally described as Balboa Island Sec 4 Lot 15 Blk & Lot 16 Blk 1 Ex E 10 Ft Lots 15 requesting to establish an outdoor dining area associated with an existing restaurant. The proposed outdoor dining area also requires relocation of existing bike racks;

WHEREAS, Mr. Miller proposes to construct a 200-square-foot outdoor dining area located along the front of the structure on Marine Avenue. The proposed area is located within the public right-of-way;

WHEREAS, the subject property is located within the Mixed Use Water Related Zoning District and the General Plan Land Use Element category is Mixed Use Water Related (MU-W2). The Coastal Land Use Plan category is Mixed Use Water Related (MU-W);

WHEREAS, on March 19, 2009, the Planning Commission approved an amendment to Use Permit No. UP2009-002 allowing for the remodel of the restaurant and determining the Use Permit was consistent with the zoning provisions for alcohol sales. Conditions of approval were established to minimize potential impacts from the restaurant operations to the nearby neighborhood. Use Permit No. UP2009-002, as amended, and related conditions of approval remain in effect;

WHEREAS, on December 3, 2015, the Planning Commission considered Use Permit No. UP2015-006 for a similar request to establish an outdoor dining area. The Use Permit application was accompanied by a request to amend the land use designation at 123 Marine Avenue to accommodate an existing legal nonconforming encroachment of the restaurant structure on that property. Because the action included a legislative action, the City Council was the final decision-making body (GP2015-002, LC2015-001, CA2015-010). The Planning Commission recommended denial of Use Permit No. UP 2015-006 and continued the land use amendment. To allow further consideration and revision of the subject applications, the applicant voluntarily withdrew both applications;

WHEREAS, a public hearing was scheduled to occur on October 20, 2016 in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the Newport Beach Municipal Code (NBMC). At the request of the applicant, the Planning Commission continued the item to its regularly scheduled meeting on November 3, 2016;

WHEREAS, on November 3, 2016, the Planning Commission conducted a public hearing in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the NBMC. At conclusion of the hearing, the Planning Commission approved the project and adopted Resolution 2035 containing the written findings supporting the action;

WHEREAS, following the Planning Commission's approval, a neighbor living adjacent to the subject property appealed the Planning Commission's approval to the City Council;

WHEREAS, on January 24, 2017, the City Council held a noticed public hearing to consider the appeal in the Council Chambers located at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the public hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at the public hearing; and

WHEREAS, on January 24, 2017 the City Council conducted a public hearing, and after the conclusion of the public hearing, the City Council directed staff to modify the proposed conditions of approval, which included the redesign and relocation of a portion of the proposed outdoor dining area to Park Avenue.

NOW, THEREFORE, the City Council of the City of Newport Beach, California, hereby resolves as follows:

Section 1: The City Council does hereby uphold the Planning Commission's approval of Use Permit No. UP2016-012 to establish an outdoor dining area associated with an existing restaurant at 127 Marine Avenue (PA2015-016) with the modified conditions of approval attached as Exhibit "A," and incorporated herein by reference. The City Council's decision is made in accordance with NBMC Section 20.52.020(F), and is supported by the following findings and facts:

Finding:

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

Fact in Support of Finding:

The subject property is designated by the General Plan as Mixed Use Water Related. The proposed project is consistent with the MU-W2 land use category, which is intended to provide for marine-related uses including retail, restaurants, and visitor-serving uses with residential on the upper floors because the project consists of an existing restaurant and residential use.

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 subject property is located in the Mixed Use Water Related Zoning district. Eating and drinking establishments are permitted within this district subject to the approval of a use permit.
2. The proposed outdoor dining area is approximately 200 square feet in size which does not require parking under Table 3-10 in NBMC Chapter 20.40.040 (Off-Street Parking Spaces Required).

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 proposed outdoor dining area is located along Marine Avenue and Park Avenue, an active mixed use commercial area with high pedestrian use. Outdoor dining areas are encouraged in mixed use areas as they contribute to the vibrancy of the area.
2. The subject dining area is limited to a four (4) foot extension from the building edge along Marine Avenue and a three (3) foot extension from the property line along Park Avenue. The sidewalk will be maintained at six (6) feet which is adequate to accommodate pedestrian passage.
3. As conditioned, the outdoor dining area and glass doors will close at 9:00 p.m. or 10:00 p.m., as detailed in Condition of Approval No. 14.
4. As conditioned, the proposed glass doors are double paned (or similar material) to provide improved, noise attenuation, as compared to the existing exterior wall and windows.
5. A portion of the existing bike racks on Marine Avenue will be re-located within the public right-of-way on the 200 and/or 300 block of Marine Avenue.

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; and

Fact in Support of Finding:

Establishment of the outdoor dining area does not impact public and emergency vehicle access and public services and utilities, as the improvements are limited to a 200-square-foot dining area and do not encroach into the roadway.

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 includes modified conditions of approval to ensure that potential conflicts with surrounding land uses are minimized to the greatest extent possible. Closing the outdoor dining area and the noise attenuated glass doors at 9:00 p.m. daily, except Fridays and Saturdays between Memorial Day weekend and Labor Day, on Federal holidays, and during community events when the outdoor dining area shall close by 10:00 p.m., or prior to commencement of live entertainment will ensure compliance with NBMC Chapter 10.26 (Community Noise Control).
2. An acoustical analysis, prepared by KFEB Acoustics on March 20, 2016, concluded that with the implementation of proposed noise reduction measures the live performances will comply with the City's nighttime noise threshold limit of 50 dBA.
3. Establishment of the outdoor dining area will require that bike racks be relocated to the 200 and/or 300 blocks of Marine Avenue. Neighboring residents have expressed concerns with noise created by the public loitering near the racks during late hours. Relocation of a portion of the racks to a more central location, away from residential uses, should address noise concerns associated with the bike racks.

Section 2: The City Council hereby waives portions of City Council Policy L-21, "Sidewalk Café Standards and Procedures", to allow for a six (6) foot wide minimum pedestrian clear width sidewalk in a potentially heavy pedestrian traffic area; to allow a barrier that would be permanently bolted in place; to allow the outdoor dining area to be maintained above the level of the existing sidewalk; and to allow the outdoor dining area to be located less than ten feet from the corner of the building. The City Council also require the applicant to apply for an Annual Outdoor Dining Encroachment Permit and pay all applicable fees and directs staff to relocate the existing bike racks within the public right-of-way adjacent to the Village Inn to new bike corrals in the 200 and/or 300 blocks of Marine Avenue.

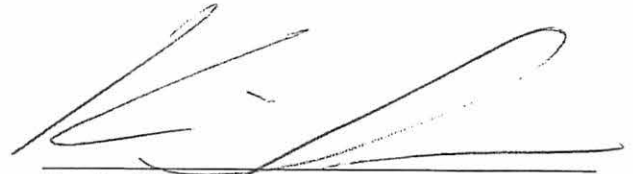
Section 3: This action is categorically exempt under Section 15303, of the State California Environmental Quality Act (CEQA) Guidelines – Construction or Conversion of Small Structures because the improvements associated with the outdoor dining area are considered accessory to the main structure. The project is also categorically exempt under Section 15302, of the State CEQA Guidelines – Class 2 (Replacement or Reconstruction) on the basis that the land use amendment does not result in new development or change the current use of the property located at 127 Marine Avenue.

Section 4: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.

Section 5: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

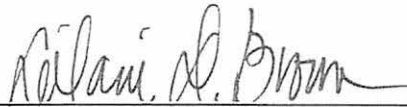
Section 6: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 14th day of February, 2017.



Kevin Muldoon
Mayor

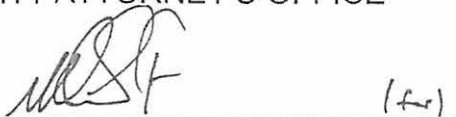
ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

EXHIBIT "A"
CONDITIONS OF APPROVAL

PLANNING

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. Use Permit No. UP2016-012 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in NBMC Section 20.54.060, unless an extension is otherwise granted. Use Permit UP2009-002 and the 2012 Live Entertainment Permit, and associated conditions of approval, shall remain in effect unless amended by this Use Permit.
3. The project is subject to all applicable City ordinances, policies, and standards.
4. 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 Use Permit.
5. This Use Permit may be modified or revoked by the Planning Commission should they determine 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.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.
7. 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.
8. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 (Community Noise Control), all other applicable noise control requirements in the NBMC and Condition No. 8 of the 2012 Live Entertainment Permit; however, NBMC Section 10.26.035(L) shall not apply.
9. 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.
10. No exterior amplified music, sound system, televisions, outside paging system shall be utilized in conjunction with the outdoor dining area.
11. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within twenty (20) feet of the premises.

12. A Special Events Permit is required for any event or promotional activity outside the normal operational 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 NBMC to require such permits.
13. 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 Village Inn Use Permit including, but not limited to, Use Permit No. UP2016-012. 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.
14. *The hours of the outdoor dining area shall be limited to 7:00 a.m. to 9:00 p.m. daily, except Fridays and Saturdays between Memorial Day weekend and Labor Day, on Federal holidays, and during community events when the outdoor dining area hours shall be 7:00 a.m. to 10:00 p.m. The outdoor dining area and its noise attenuated glass doors shall close prior to the commencement of live entertainment. Upon closing the outdoor dining area and when live entertainment is offered, the noise attenuated glass doors which access the outdoor dining area shall be closed and no customers shall remain within the outdoor dining area when it is closed.*
15. *Live entertainment shall be limited to 10:00 p.m. on nights before a school day, as calendared by the Newport Mesa Unified School District, and limited to midnight on "non-school" nights and on all Fridays and Saturdays.*
16. *On New Year's Eve, the restaurant shall be permitted to operate until 1:00 a.m. on January 1st. Live entertainment and alcoholic beverage service shall cease at or before 12:30 a.m.*
17. *All glass doors which provide access to the outdoor dining area and the door and window on the south side of the building shall be noise attenuated to a STC rating of 34 per the Acoustical Evaluation and Design Recommendations dated March 20, 2016 by KFEB Acoustics. The effectiveness of the noise attenuation shall be documented in the door specifications and reviewed during the plan check process.*
18. *The outdoor seating area shall not be permanently enclosed; however, roll-down plastic shielding for protection from weather elements that can be rolled up after hours is allowed. Canvas or other "temporary materials" that are affixed shall be prohibited.*

19. *Prior to finalizing the building permit for the outdoor dining area, interior acoustical absorption panels shall be installed per the Acoustical Evaluation and Design Recommendations dated March 20, 2016 by KFEB Acoustics.*
20. *The assumptions and recommendations presented in the Acoustical Evaluation and Design Recommendations prepared by KFEB Acoustics on March 20, 2016 shall be maintained by the restaurant pertaining to upgrades and maintenance of attenuating materials (i.e., door and window seals).*
21. *Live entertainment shall be limited to a maximum of four (4) musicians and/or vocalists using amplified instruments and microphones at any one time. If bass sounds or noise become an issue, the applicant will work with the Director of Community Development to provide sound barriers or screens for the percussion or an all-electronic percussion system shall be utilized so that speaker direction can control percussion as well.*
22. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
23. There shall be no reduced price alcoholic beverage promotions offered by the restaurant after 9:00 p.m.
24. Food service from the regular menu shall be available to patrons up to thirty (30) minutes before the schedule closing time of the restaurant.
25. Prior to occupying the outdoor dining area, the applicant shall obtain an Operator License from the Newport Beach Police Department. A security plan shall be submitted with the Operator License application.

Building Division

26. 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.
27. *If the abatement period is extended, prior to issuance of building permits for the outdoor dining area, a building permit application shall be filed to address the life safety and structural issues associated with the portion of the restaurant structure which encroaches onto 123 Marine Avenue.*
28. *If the abatement period is extended, prior to building permit final (certificate of occupancy) of the outdoor dining area, building permits shall be obtained for the portion of the restaurant structure which encroaches onto 123 Marine Avenue.*

29. Structural plans shall be required for the expansion of outdoor dining. A building permit shall be required.
30. Wheelchair accessible path of travel to the area to the outdoor dining is required.
31. Delineate a wheelchair accessible seat in the outdoor dining area.
32. In addition to the requirements listed above, additional disable access upgrades are required which shall include: the entrance, bar counter, and/or restrooms. Accessible upgrades shall be limited to twenty percent (20%) of the value of the work for outdoor dining.

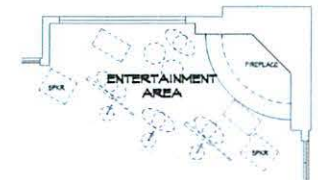
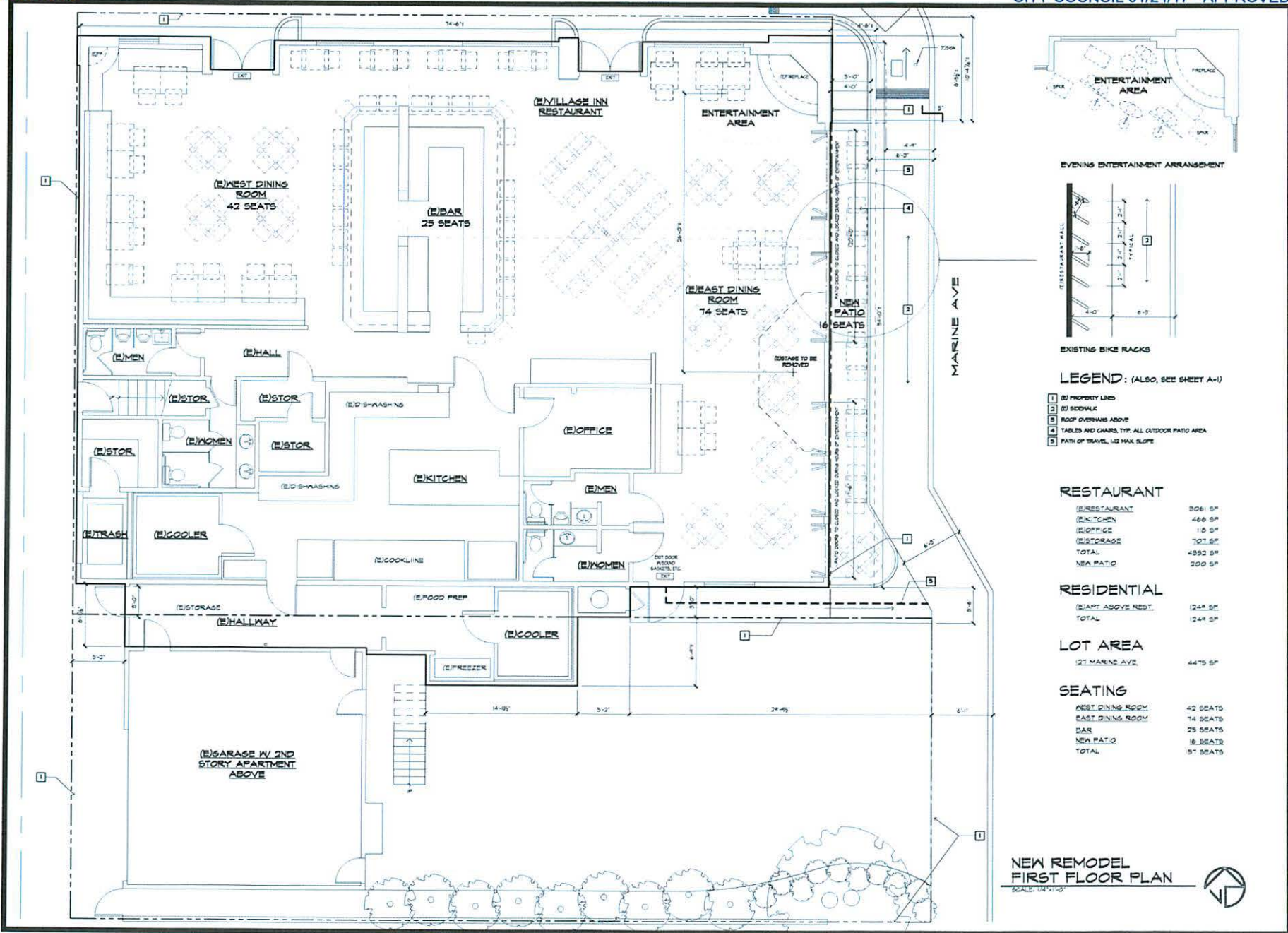
Public Works

33. The applicant shall obtain an Annual Outside Dining Encroachment Permit from the Public Works Department and pay all applicable fees and costs for the proposed outdoor dining area.
34. *This use permit shall not become effective until such time the City Council authorizes the following:*
 - a. *Waiver of City Council Policy L-21 as it pertains to specific components of the outdoor dining area. Areas for the City Council's consideration is the need to raise the dining area six (6)-inches above the sidewalk, allowance of a six (6)-foot wide sidewalk instead of eight (8)-feet, the permanent nature of the guardrails, and the projection of the accordion doors into the right-of-way.*
 - b. *Relocation of the affected bike racks or new bike corrals to be installed in the 200 and/or 300 block of Marine Avenue.*
35. *The applicant shall submit \$6,000 to the City of Newport Beach within thirty (30) calendar days of the effective date of the City Council authorizing relocation of the bike racks. These funds will be used for the purchase and installation of the bike corrals to accommodate more than ten (10) bikes and other related improvements. The new bike corrals shall be installed prior to issuance of building permits for the outdoor dining area, and in any event, within one hundred eighty (180) calendar days of the effective date of the City Council action on the waiver of City Council Policy L-21 and authorization to relocate the bike racks.*
36. *Within three months of certificate of occupancy and full operation of the outdoor dining area, the City shall undertake measurements of the noise generated by the outdoor dining area, at the cost to the applicant. The analysis shall be considered by the Planning Commission at a noticed public hearing to ensure compliance with the conditions of approval and the City's Noise Ordinance. Modifications to conditions of approval may be required of the project is not in compliance.*

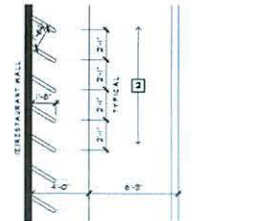
37. *Prior to certificate of occupancy, the applicant shall install landscaping on-site to the greatest extent possible, as determined acceptable to the Community Development Director.*
38. *The stage shall be located per the approved plans, but the applicant may relocate the stage to minimize noise impacts with the prior written approval of the Community Development Director. The speakers for entertainment shall face the west and/or north and shall be directed away from the south to minimize impacts to adjacent residential properties.*
39. *The interior sound curtain along the south restaurant wall shall be fully extended across the entire wall during live entertainment.*
40. *The sidewalk on Park Avenue shall be widened to allow outdoor dining to occupy up to three (3) feet of the public right of way, while maintaining a six (6)-foot wide sidewalk. The final design shall be approved by the Public Works Director, and the applicant shall perform, or contract with the City to perform, all required improvements and be responsible for the cost of all necessary improvements in the public right-of-way.*
41. *The outdoor dining area along Marine Avenue shall be four (4) feet in width as measured from the building wall and may be raised to match the finish floor of the restaurant interior, as required to comply with ADA requirements. The dining area will generally wrap around from the Park Avenue dining area and extend from the building's north edge for approximately thirty-two (32) feet to the south. An access door may be located at the northernmost end of the outdoor dining area, but shall be no more than forty-two (42) inches wide. No other doors shall be permitted along Marine Avenue.*
42. *Deliveries and refuse collection for the restaurant shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., daily.*
43. *Televisions shall not be oriented for the purposes of viewing from the public right of way.*
44. *The applicant will install a solid wall or plexiglass wall at the south end of the Marine Avenue outdoor dining area.*
45. *The applicant may encroach three (3) feet into the right of way on Park Avenue with an awning or other similar cover over the outdoor dining area.*

Attachment No. PD 2

Project Plans



ENTERTAINMENT AREA



EVENING ENTERTAINMENT ARRANGEMENT

- LEGEND:** (ALSO, SEE SHEET A-1)
- 1 PROPERTY LINES
 - 2 SIDEWALK
 - 3 ROOF OVERHANG ABOVE TABLES AND CHAIRS, TYP. ALL OUTDOOR PATIO AREA
 - 4 PATH OF TRAVEL, 1/2 MAX. SLOPE

RESTAURANT

WEST DINING ROOM	3061 SF
EAST DINING ROOM	466 SF
BAR	116 SF
STORAGE	707 SF
TOTAL	4592 SF
NEW PATIO	200 SF

RESIDENTIAL

2ND STORY ABOVE REST.	124 SF
TOTAL	124 SF

LOT AREA

127 MARINE AVE.	4475 SF
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SEATING

WEST DINING ROOM	42 SEATS
EAST DINING ROOM	74 SEATS
BAR	25 SEATS
NEW PATIO	16 SEATS
TOTAL	97 SEATS

NEW REMODEL FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"



NO.	REVISION	DATE

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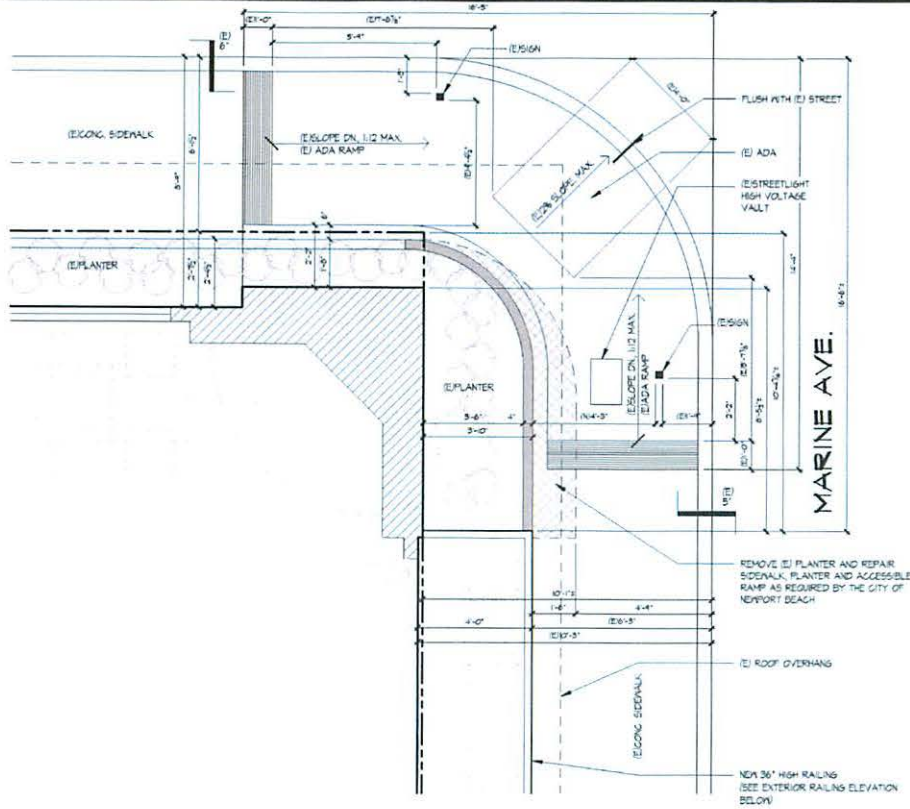


THE VILLAGE INN
IMPROVEMENT PLANS
127 MARINE AVE.
BALBOA ISLAND, CA 92069

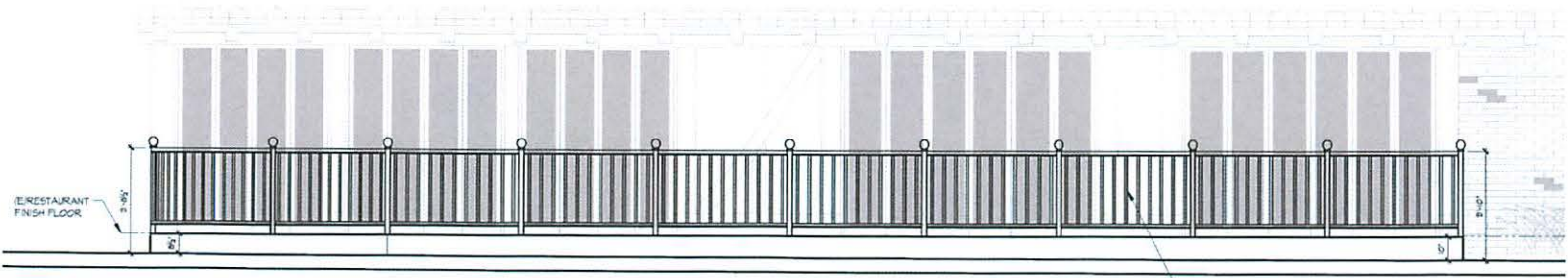
**FIRST FLOOR REMODEL
NEW REMODEL
FLOOR PLAN**

DATE: 8/29/16
DRAWN BY: TRUAX
PROJECT NO.: THE VILLAGE INN
SHEET

A-2



A
NEW REMODEL CORNER PLAN
SCALE: 1/2"=1'-0"



B
NEW REMODEL PATIO RAILING EAST ELEVATION
SCALE: 1/2"=1'-0"

BICYCLE RACK SPEC'S OR SIMILAR

HOOP RACK

Simple Security

DERO

NO.	REVISION	DATE

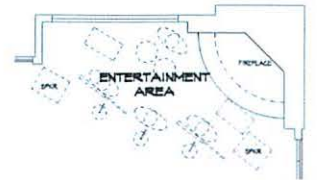
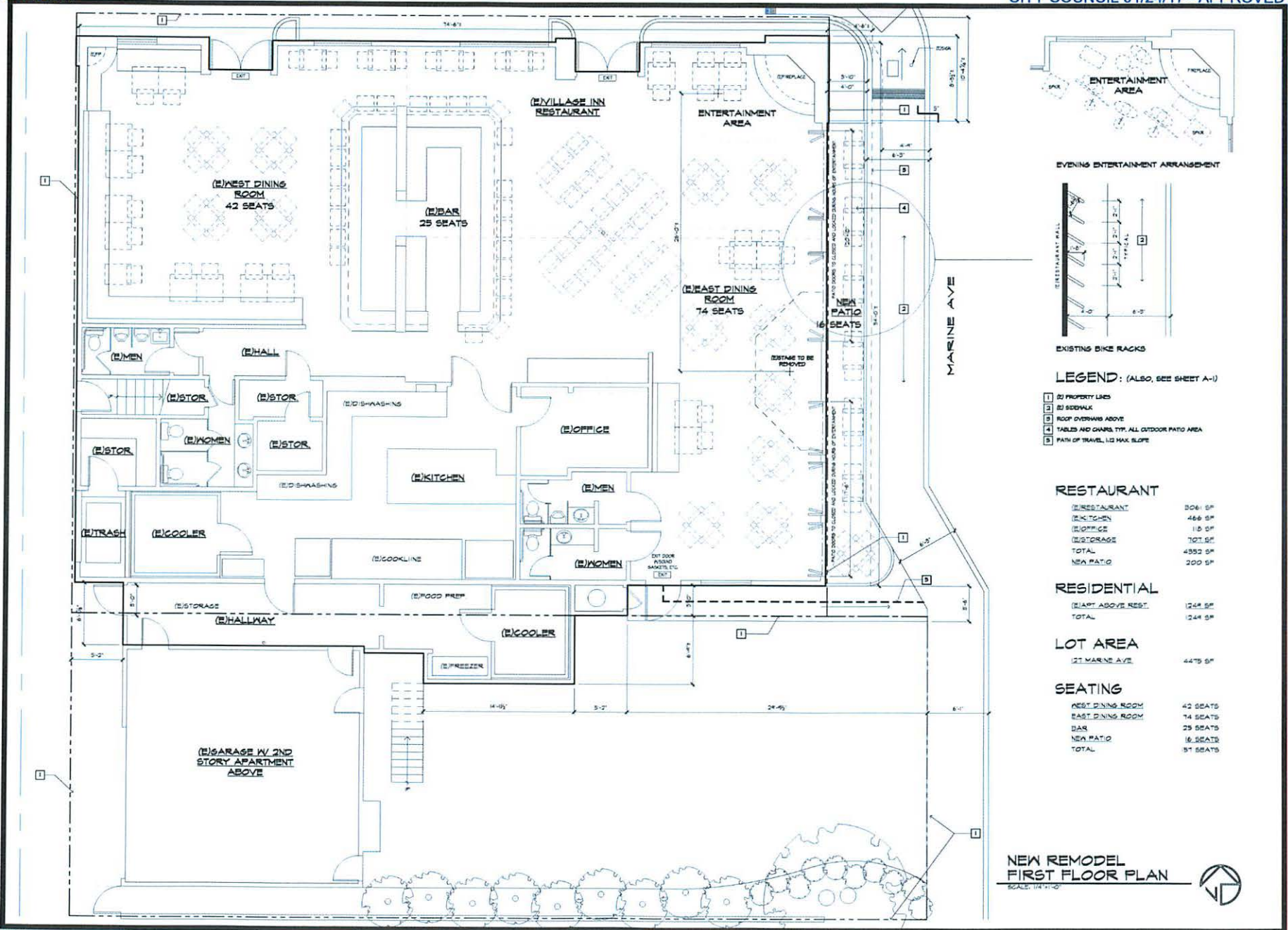
JAY A. TRUAX
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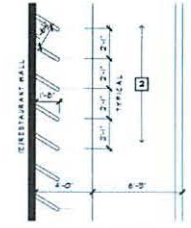
THE VILLAGE INN
IMPROVEMENT PLANS
127 MARINE AVE
BALBOA ISLAND, CA 92083

BICYCLE RACKS SPECIFICATIONS & DETAILS

DATE 8/29/16
DRAWN BY TRUAX
PROJECT NO. THE VILLAGE INN
SHEET A-3



EVENING ENTERTAINMENT ARRANGEMENT



EXISTING BIKE RACKS

LEGEND: (ALSO, SEE SHEET A-1)

- 1 (U) PROPERTY LINES
- 2 (U) SIDEWALK
- 3 (U) ROOF OVERHANG ABOVE
- 4 (U) TABLES AND CHAIRS TYP. ALL OUTDOOR PATIO AREA
- 5 (U) PATH OF TRAVEL, 1:12 MAX. SLOPE

RESTAURANT

(U) RESTAURANT	3061 SF
(U) KITCHEN	466 SF
(U) STORAGE	118 SF
(U) STORAGE	707 SF
TOTAL	4552 SF
NEW PATIO	200 SF

RESIDENTIAL

(U) 2ND STORY ABOVE REST.	1244 SF
TOTAL	1244 SF

LOT AREA

(U) 127 MARINE AVE	4475 SF
--------------------	---------

SEATING

WEST DINING ROOM	42 SEATS
EAST DINING ROOM	74 SEATS
BAR	25 SEATS
NEW PATIO	16 SEATS
TOTAL	57 SEATS

NEW REMODEL FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0"



NO.	REVISION	DATE

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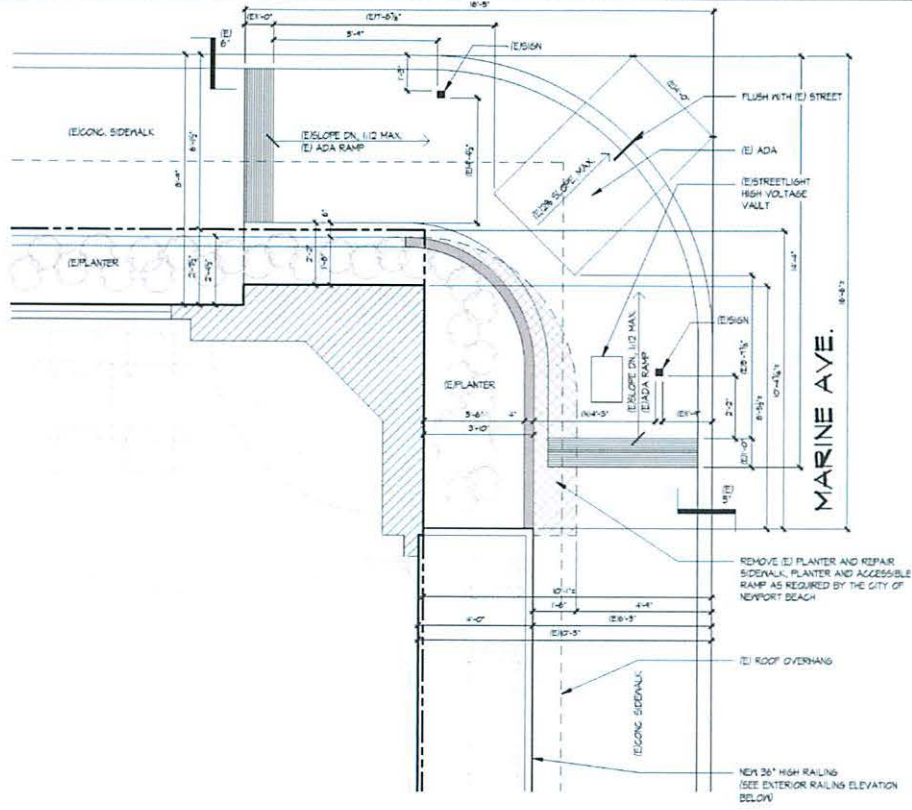


THE VILLAGE INN
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127 MARINE AVE.
BALBOA ISLAND, CA 92002

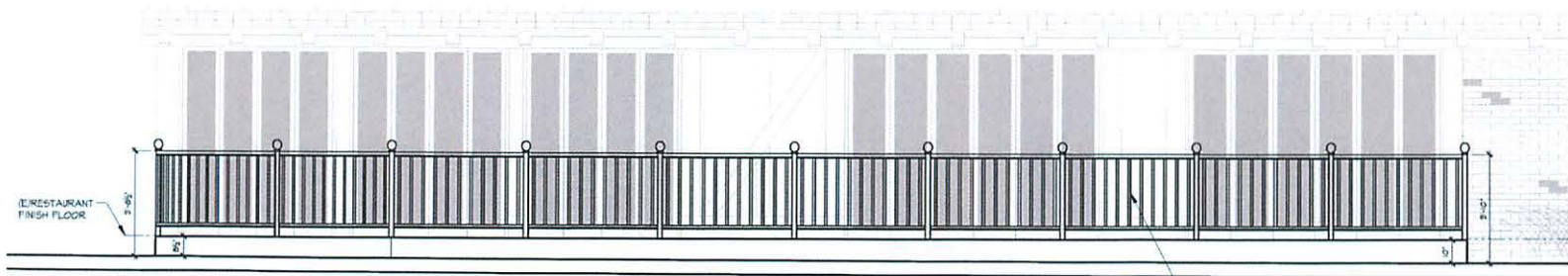
**FIRST FLOOR
NEW REMODEL
FLOOR PLAN**

DATE: 8/29/16
DRAWN BY: TRUAX
PROJECT NO: THE VILLAGE INN
SHEET

A-2

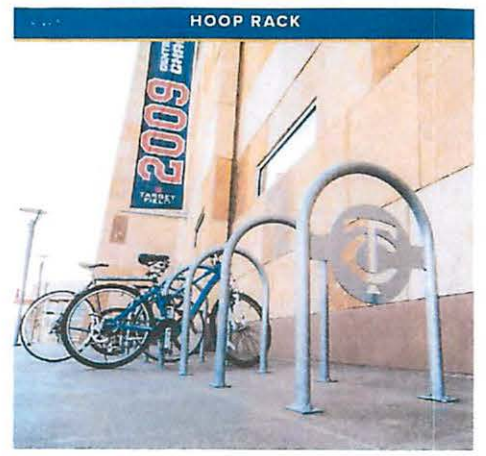


A
NEW REMODEL CORNER PLAN
SCALE: 1/2"=1'-0"



B
NEW REMODEL PATIO RAILING EAST ELEVATION
SCALE: 1/2"=1'-0"

BICYCLE RACK SPEC'S OR SIMILAR



Simple Security
The Simple Security is a proven design for secure bicycle parking. It is made of heavy-duty steel tubing and is easy to install. The Simple Security is a proven design for secure bicycle parking. It is made of heavy-duty steel tubing and is easy to install.



NO.	REVISION	DATE

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THE VILLAGE INN
IMPROVEMENT PLANS
127 MARINE AVE.
BALBOA ISLAND, CA 92663

BICYCLE RACKS SPECIFICATIONS & DETAILS

DATE: 8/29/16
DRAWN BY: TRUAX
PROJECT NO: THE VILLAGE INN
SHEET

A-3

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Attachment No. PD 3
Security Plan

Village Inn Security Plan

- The Village Inn operates with an interior and exterior camera system as well as an alarm system.
- All service staff will be trained in alcoholic beverage license laws and privileges regarding sales to minors, sales to obviously intoxicated persons, after-hours service, and noise.
- In-house management is tasked with handling guest situations or circumstances with professionalism.
- Our entire staff is involved in the communication about guest misbehavior and issues are addressed with expedience, dignity, and professionalism by our team. If guests are asked to depart the restaurant, they are offered transportation services though Uber, Lyft, or Taxi.
- The Newport Beach Police Department will be contacted should there be a physical incident.
- We will have an employee regularly monitor the surrounding area of the premises for loitering, littering, and open containers of alcoholic beverages.
- At the end of each shift, a staff member will circulate around the exterior of the building to ensure there is no loitering.
- During live entertainment, The Village Inn will ensure that a staff member is trained and will be tasked to maintain restaurant security, as well as uphold all conditions the CUP, Operator License, and ABC License.
- All windows and doors closed while entertainment is provided except for the ingress and egress of customers and staff.