



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 for the week ending February 14, 2020.

ZONING ADMINISTRATOR ACTIONS FEBRUARY 13, 2020

- Item 1: AT&T Small Cell SLC2389 Minor Use Permit No. UP2019-007 (PA2019-042)
Site Address: Public Right-of-Way, City streetlight number SLC2389, near the northeast corner of Bixia Street and Eastbluff Drive
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| Action: Removed from Calendar | Council District | 4 |
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- Item 2: South Bayfront Waterpointe, LLC. Residence Coastal Development Permit No. CD2019-075 (PA2019-265)
Site Address: 400 South Bay Front
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| Action: Approved by Resolution No. ZA2020-011 | Council District | 5 |
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- Item 3: BR Trust Lot Line Adjustment No. LA2020-001 (PA2020-001)
Site Address: – 4700 Surrey Drive
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| Action: Approved by Resolution No. ZA2020-012 | Council District | 6 |
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- Item 4: Fox Residential Duplex Coastal Development Permit No. CD2019-061 (PA2019-243)
Site Address: 494, 496, and 498 Seaward Road
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| Action: Approved by Resolution No. ZA2020-013 | Council District | 6 |
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- Item 5: Richard Barrett Trust Seawall Coastal Development Permit No. CD2019-071 (PA2019-251)
Site Address: 930 Via Lido Nord
- | | | |
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| Action: Approved by Resolution No. ZA2020-014 | Council District | 1 |
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- Item 6: Hwang Residence Modification Permit No. MD2019-006 (PA2019-175)
Site Address: 107 32nd Street
- | | | |
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| Action: Approved by Resolution No. ZA2020-015 | Council District | 1 |
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- Item 7: Wells Residence Coastal Development Permit No. CD2019-047 (PA2019-174)
Site Address: 1140 West Bay Avenue
- | | | |
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| Action: Approved by Resolution No. ZA2020-016 | Council District | 1 |
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Item 8: SoCal Cycleboats Boat Rental Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059 (PA2019-236)
Site Address: 2406 Newport Boulevard and 2000 West Balboa Boulevard

Action: Approved by Resolution No. ZA2020-017

Council District

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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2020-011

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-075 TO CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AT 400 SOUTH BAY FRONT (PA2019-265)

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 (“Applicant”), on behalf of South Bayfront Waterpointe, LLC. (“Owner”), with respect to property located at 400 South Bay Front, and legally described as Lots 1 and 2 in Block 7 of Section 1, Balboa Island, requesting approval of a coastal development permit. The lots were previously combined into a single parcel for development purposes in 1983 (PM 83-710).
2. The Applicant proposes to construct a new 5,689-square-foot, single-family residence with an attached 715-square-foot, three-car garage.
3. The subject property is located within the R-BI (Balboa Island) Zoning District and the General Plan Land Use Element category is RT (Two-Unit Residential).
4. The subject property is located within the coastal zone and has a Coastal Land Use Designation of Two-Unit Residential (RT-E) (30.0 - 39.9 DU/AC) and a Coastal Zoning District of Balboa Island (R-BI).
5. A public hearing was held on February 13, 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 (NBMC). 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 from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines.
2. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project includes the construction of a new 5,689-square-foot, single-family residence with an attached 715-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 6,544 square feet and the proposed gross floor area is 6,404 square feet.
 - b. The proposed development will provide the required setbacks, which are zero feet along the front property line abutting the boardwalk, four feet along the side property lines, and five feet along the rear property line abutting the alley.
 - c. The highest flat roof or guardrail is no more than 24 feet, measured from the finished floor level of 9 feet North American Vertical Datum of 1988 (NAVD 88) and the highest roof ridge is no more than 29 feet, measured from the finished floor level, 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 pattern of development and expected future development consistent with applicable development standards as the neighborhood is developed with a mix of one-, two- and three-story, single-family residences.
3. Coastal Development Permit CD2018-073 was reviewed and approved for the project site on February 28, 2019, allowing demolition of two existing multi-unit structures containing a total of five units. Additionally, the demolition was found to be compliant with NBMC Chapters 20.34 and 21.34 (Conversion or Demolition of Affordable Housing) and the Mello Act by the Community Development Director on February 8, 2019. A building permit was issued for the approved demolition on April 4, 2019, and the structures have been removed. The property is therefore not subject to the provisions of Senate Bill 330, which became effective on January 1, 2020.

4. The property is a bay front lot separated from the water by a public boardwalk and City-owned concrete seawall/bulkhead. The bulkhead which protects the subject property is part of a larger bulkhead system which surrounds Balboa Island. No modification to the existing bulkhead is proposed with this project. A Coastal Hazards and Sea Level Rise report, dated December 5, 2019, was prepared for the project by GeoSoils, Inc. The report concludes that, with the implementation of sea level rise (SLR) adaptation strategies (waterproofing of the structure and future raising of the City's bulkhead), the proposed development will not be adversely impacted by potential coastal hazards over the next 75 years. No additional protective devices will be necessary to protect the proposed development.
5. Pursuant to 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.
6. The finished floor elevation of the first habitable floor of the proposed structure is 9 feet North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9 foot (NAVD 88) elevation standard for new structures. The development will be required to be waterproofed to 10.6 feet NAVD 88 to accommodate future anticipated potential sea level rise.
7. 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.
8. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff onsite to ensure the project does not impact water quality. Any water not retained onsite is directed to the City's storm drain system.
9. 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.
10. 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.

11. The property 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

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; 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 construction of 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 public boardwalk along the waterfront.

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. CD2019-075, 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 13th DAY OF FEBRUARY, 2020.



Jaime Murillo
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. CD2019-075 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 issuance of building permits, the project plans shall be updated to reflect that a waterproofing curb will be constructed around the proposed residence as an adaptive flood protection device up to 10.6 feet North American Vertical Datum of 1988 (NAVD 88). Flood shields (sand bags and other barriers) can be deployed across the openings to protect prevent flooding to the structure.*
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. 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.
 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.

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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 CPPP and 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. 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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25. 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.
 26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 27. This Coastal Development Permit No. CD2019-075 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
 28. To the fullest extent permitted by law, 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 South Bayfront Waterpointe, LLC. Residences including, but not limited to, Coastal Development Permit No. CD2019-075 (PA2019-265). 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. ZA2020-012

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2020-001 TO ADJUST THE BOUNDARIES OF PARCELS LOCATED AT AND ADJACENT TO 4700 SURREY DRIVE (PA2020-001)

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. requesting approval of a lot line adjustment with respect to property located at 4700 Surrey Drive and an adjacent 5-foot wide strip of undeveloped land along the Surrey Drive right-of-way. These properties are legally described as Parcel I as shown on Exhibit "B" attached to Lot Line Adjustment No. 98-05 recorded September 22, 1998 as Instrument No. 19980634516 of Official Records of Orange County, California; and that portion of Block 95, Irvine's Subdivision, lying southerly of and contiguous to Parcels 2, 3, and 4 of Parcel Map No. 89-137, excepting therefrom any portion lying within Tract No. 3519.
2. The applicant proposes to adjust the boundary between two (2) contiguous parcels. Land taken from the unaddressed, undeveloped strip of land will be reallocated to 4700 Surrey Drive. There will be no change in the number of parcels.
3. The unaddressed strip of land along Surrey Drive is zoned Open Space and the General Plan Land Use Element category is Open Space (OS). The contiguous property at 4700 Surrey Drive is zoned Single-Unit Residential (R-1-6,000) and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject properties are located in the coastal zone; however, approval of the Lot Line Adjustment will not result in an increase in density or intensity of use and therefore a coastal development permit is not required.
5. A public hearing was held on February 13, 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 has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15305, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 5 (Minor Alterations in Land Use Limitations) of the Guidelines for CEQA.

2. This exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including minor lot line adjustments. The proposed boundary adjustment affects the property line between two (2) contiguous parcels and is intended to accommodate future construction of a driveway to a new garage at the lower level of the existing residence at 4700 Surrey Drive.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Approval of the lot line adjustment will not, under the circumstances of the 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 line adjustment is consistent with the legislative intent of the title.*

Facts in Support of Finding:

1. The proposed lot line adjustment will not change the existing use, or allowable intensity or density, of either property. The General Plan Land Use Designation of Single-Unit Residential Detached will be maintained for the 4700 Surrey Drive parcel. The Open Space designation will be maintained for the unaddressed, undeveloped strip of land along Surrey Drive.
2. The proposed lot line adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. The 4700 Surrey Drive property will continue to allow for a maximum of one single-unit dwelling consistent with the applicable General Plan Land Use and zoning designation. The use of the contiguous undeveloped strip of OS land will continue to be consistent with the applicable General Plan Land Use and zoning designation.
3. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustment) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where land taken from one lot is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
4. The subdivision does not negatively impact surrounding land owners, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood, as the adjustment affects interior property lines between two (2) adjacent parcels.

Finding:

- B. The number of parcels resulting from the lot line adjustment remains the same as before the adjustment.*

Fact in Support of Finding:

1. The proposed lot line adjustment will adjust the property line between two (2) contiguous parcels. The number of parcels remains the same as before the lot line adjustment.

Finding:

- C. The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The 4700 Surrey Drive property is located within Single-Unit Residential (R-1-6,000) Zoning District, intended to provide for detached single-unit dwellings. The unaddressed, undeveloped strip of land along Surrey Drive is zoned OS (Open Space), intended to provide areas to maintain and protect the community's natural open spaces, and to maintain open space areas within developed areas. The proposed lot line adjustment will not change the existing use of the parcels affected.
2. The proposed lot line adjustment will shift the existing property line between two (2) parcels towards the southwest, reallocating approximately 336 square feet of land to the property at 4700 Surrey Drive. The resulting boundary will allow construction of a driveway from Surrey Drive to a new garage at the lower level of the existing single-family residence
3. The proposed 4700 Surrey Drive parcel will continue to exceed the minimum site area requirement of the R-1-6,000 Zoning District. Lots of this designation are required to provide a minimum lot area of 6,000 square feet. In this case, the proposed 4700 Surrey Drive parcel is compliant in size with an area of 1.008 acres (43,897 square feet).
4. The proposed lot line adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. The property at 4700 Surrey Drive will continue to allow for a maximum of one single-unit dwelling consistent with the applicable General Plan Land Use and zoning designation.

Finding:

- D. Neither the lots as adjusted nor adjoining parcels will be deprived legal access as a result of the lot line adjustment.*

Fact in Support of Finding:

1. The proposed lot line adjustment affects the interior property lines between two (2) adjacent parcels. Legal access to the subject properties is not affected by the adjustment.

Finding:

- E. That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Fact in Support of Finding:

1. Vehicular access to the existing properties is from Surrey Drive and the final configuration will not change.

Finding:

- F. That the final configuration of a reoriented lot does not result in any reduction of the street site setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street site setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street site setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Fact in Support of Finding:

1. The final configuration of the proposed parcels does not result in a requirement for revised setbacks since the parcels are not proposed to be reoriented. The required setbacks applicable to parcels in the R-1-6,000 Zoning District shall continue to apply to the adjusted parcel.

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 15305 under Class 5 (Minor Alterations in Land Use Limitations) 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 Lot Line Adjustment No. LA2020-001, 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 ten (10) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 19 (Subdivisions) of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF FEBRUARY, 2020.

BY:



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. The 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.
3. Prior to recordation of the lot line adjustment, the applicant shall submit the exhibits to the Public Works Department for final review.
4. 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 BR Trust Lot Line Adjustment including, but not limited to, Lot Line Adjustment No. LA2020-001 (PA2020-001). 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. ZA2020-013

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-061 TO DEMOLISH AN EXISTING TWO-STORY TRIPLEX AND CONSTRUCT A NEW TWO-STORY DUPLEX AND TWO ATTACHED TWO-CAR GARAGES LOCATED AT 494, 496, AND 498 SEAWARD ROAD (PA2019-243)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Marilyn Fox, with respect to property located at 494, 496, and 498 Seaward Road, requesting approval of a coastal development permit.
2. The lot at 494, 496, and 498 Seaward Road is legally described as Lot 14 of Tract 2758.
3. The applicant proposes the demolition of an existing triplex and the construction of a new 4,587-square-foot duplex and two attached two-car garages totaling 800 square feet. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. The project complies with all applicable development standards and no deviations are requested.
4. The subject property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM-6000) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential (RM-D) – (20.0 – 29.9 DU/AC) and it is located within the Multiple Residential (RM-6000) Coastal Zone District.
6. 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 9, 2019. The property is therefore not subject to the provisions of Senate Bill 330, which became effective on January 1, 2020.
7. A public hearing was held on February 13, 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 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 construction of limited numbers of new, small structures, including a duplex. The proposed project is a new duplex located in the RM-6000 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, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The Local Coastal Program allows for a maximum density of three units on the subject property and the proposed project is for a duplex.
 - b. The maximum site coverage allowed is 60 percent and the proposed residence is 57 percent (including eaves).
 - c. The proposed development provides the minimum required setbacks, which are 12 feet along the property line abutting Morning Canyon Road, 5 feet along the property line abutting Seaward Road, 6 feet along the side opposite of Seaward Road, and 6 feet along the rear property line opposite of Morning Canyon Road.
 - d. The highest guardrail is less than 24 feet from established grade (104.2 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - e. The project includes garage parking for a total of four vehicles within two two-car garages, complying with the minimum four-car parking requirement for duplexes.

2. The neighborhood is predominantly developed with one- and two-story, single family residences, duplexes and triplexes. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. The development is located on an inland property in a developed area approximately 2,000 feet from the beach. The finished floor elevation of the first floor of the proposed structure is 104.3 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the 104.3-foot NAVD88 finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
4. 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 CBC prior to building permit issuance.
5. The property is located approximately 2,000 feet of coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation 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.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
7. The project site is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is at Corona del Mar State Beach and is not visible from the site. The proposed duplex complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

Finding:

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

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing triplex with a new duplex. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

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. CD2019-061, 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. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF FEBRUARY, 2020.



Jaime Murillo
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. No demolition or construction materials shall be stored on public property.
3. 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.
4. 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.
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. 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.

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.
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. 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.
13. 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.
14. 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.
15. 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.
16. 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.
17. 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.

18. 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.
19. 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.
20. This Coastal Development Permit No. CD2019-061 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.
21. 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 Fox Duplex including, but not limited to, Coastal Development Permit No. CD2019-061 (PA2019-243). 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. ZA2020-014

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-071 TO RAISE AN EXISTING SEAWALL AND DECK LOCATED AT 930 VIA LIDO NORD (PA2019-251)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Richard Barrett, with respect to property located at 930 Via Lido Nord, requesting approval of a coastal development permit.
2. The lot at 930 Via Lido Nord is legally described as Lot 328 of Tract 907.
3. The applicant proposes to raise an existing concrete seawall and construct an elevated deck. A previous grade determination was approved (Staff Approval No. SA2019-008) to allow the height of accessory structures to be measured from 9.50 feet North American Vertical Datum of 1988 (NAVD 88).
4. 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.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) (10.0 – 19.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on February 13, 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 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 construction of accessory structures. The proposed project consists of the construction of a new raised wood deck and raised concrete seawall.

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, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed improvements comply with applicable residential development standards including height of accessory structures in the front setback.
 - a. A grade determination was previously approved by the Community Development Director on December 6, 2019, which authorized the height of accessory structures within the 10-foot front setback to be measured from 9.5 feet (NAVD 88).
 - b. The proposed raised deck and seawall are located within the required front setback area abutting the bay, which is 10 feet. The existing concrete deck which is at an elevation of 7.17 feet (NAVD 88), is proposed to be raised to 9.5 feet NAVD 88. The existing seawall, which is also at an elevation of 7.17 feet (NAVD 88), is proposed to be raised to 10.0 feet (NAVD 88), or 10.18 Mean Lower Low Water (MLLW), with a guardrail constructed above at an elevation of 13.0 feet (NAVD 88). The proposed seawall meets the current City of Newport Beach standard of 10.0 (MLLW). All proposed improvements comply with height requirements for accessory structures in the front setback.
2. The neighborhood is predominantly developed with two- and three-story, single-family residences with protective shoreline devices. The proposed raised bulkhead is consistent with the existing neighborhood pattern of development.
3. According to a Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting, Inc. dated November 15, 2019, there is a lower seawall and upper seawall that combine to serve the subject property. The lower seawall has an elevation of 7.17 feet (NAVD 88), while the upper seawall has an elevation of 11.7 feet (NAVD 88). The Newport Beach City Council approved the use of the high estimate of the low risk aversion scenario, provided by the State of California, Sea Level Rise Guidance: 2018 Update. The low risk aversion scenario projects a sea level rise of 2.9 feet by the year

2095. Using this scenario, a maximum water level of 10.6 feet (NAVD 88) is determined. Since the two seawalls are considered to act as one protective device for the property, together they exceed the current City of Newport Beach standard of 10.0 feet (MLLW), and are adequate to protect the existing residence from sea level rise using the low risk aversion scenario. The current maximum bay water elevation is 7.7 feet (NAVD 88) and may exceed the existing 7.17 feet (NAVD 88) top of bulkhead elevation for the lower seawall during high tide or storm events. The proposed raising of the lower seawall to 10.0 feet (NAVD 88) is to prevent flooding into the lower patio area. Additionally, the report analyzes future sea level rise scenarios based on medium-high aversion, which projects a 6-foot increase in the maximum water level over the next 75 years (ie. the life of the structure), or 13.7 feet (NAVD 88). Per the report's recommendations, the first floor elevation of the existing structure will remain above high tide sea level until approximately 2085. Afterwards, the seawalls can be raised to an elevation of 13.7 feet (NAVD 88) if needed without bayward encroachment to protect the structure on the lot from flooding.

4. 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 CBC prior to building permit issuance.
5. The project site is located approximately 200 feet from a public park located on a lot between 904 and 914 Via Lido Nord, which is a designated public viewpoint in the Coastal Land Use Plan and offers public views of Newport Bay. The proposed project is to raise a lower seawall and deck to elevations that comply with the maximum heights for accessory structures within front setback areas. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 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 raises an existing seawall and deck within the front setback area abutting the bay. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited

(appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

2. Vertical access to the bay is available approximately 200 feet from the project site at a public park on Via Lido Nord. The project does not include any features that would obstruct access to the bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act ("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. CD2019-071, 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 13TH DAY OF FEBRUARY, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *The existing seawall shall be reinforced and capped to 10.0 feet (NAVD 88) minimum in accordance with the recommendations provided in the report prepared by PMA Consulting, Inc. on November 15, 2019 and as identified in the approved plans.*
3. *The alterations to the seawall shall allow for a future increase in height without further seaward encroachment.*
4. 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 including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. 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.
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. Demolition beyond the approved scope of work requires planning division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the entire structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January

31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds 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.
9. 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.
 10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
 11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
 12. 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.
 13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
 14. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
 15. This Coastal Development Permit does not authorize any development seaward of the private property.
 16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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.
23. This Coastal Development Permit No. CD2019-071 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.
24. 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 Richard Barrett Trust Seawall including, but not limited to, Coastal Development Permit No. CD2019-071 (PA2019-251). 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. ZA2020-015

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MODIFICATION PERMIT NO. MD2019-006 TO ALLOW A NEW RESIDENTIAL GARAGE TO DEVIATE ONE FOOT FROM MINIMUM REQUIRED DEPTH OF 19 FEET LOCATED AT 107 32nd STREET (PA2019-175)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Phil Nielsen with respect to property located at 107 32nd Street, and described as APN 423 343 08 requesting approval of a Modification Permit.
2. The applicant proposes a Modification Permit to allow a new two-car garage to deviate from the minimum interior depth of 19 feet. The garage is proposed as part of the demolition and reconstruction of a new single-family residence of approximately 1,745 square feet. The applicant is proposing a garage depth of 18 feet, resulting in a 1-foot deviation from the standard. The Modification Permit is requested due to the site's orientation to the alley and the width of the lot. The project complies with all other development standards and no additional deviations are requested.
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 located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential – 30.0-39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
5. A Coastal Development Permit is not required for the project. The site is located within the Categorical Exclusion Order (CEO) area, which allows new single-family residences to be excluded if they comply with specific criteria such as the minimum number of parking spaces. There are no requirements related to the size of parking spaces identified in the Special Conditions of Categorical Exclusion Order Amendment CE-5-NPB-16-1-A1. Additionally, a modification to Local Coastal Program Implementation Plan (IP) standards (pursuant to Section 21.52.090 – Relief From Implementation Plan Development Standards) is not required to modify the parking dimension standards because the IP does not include standards related to the size of parking spaces, only the number of spaces. The project will provide the required two parking spaces for single-family development under 4,000 square feet.
6. A public hearing was held on February 13, 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 15303 under Class 3 (New Construction or Conversion of Small Structures) 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. Class 3 exempts the demolition and construction 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 demolition of a single-family residence and construction of a new 1,745-square-foot, single-family residence with two-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 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The existing development on the property is a single-family residence. Therefore, there is no change to the density as a result of the proposed demolition and construction of a new single-family residence.
2. The majority of single-family and two-unit developments in the vicinity provide access to their garage or carport via the alley, consistent with the proposed project.
3. The proposed project would replace an existing non-conforming residence with a new residence that meets all required development standards with the exception of the required 19-foot depth for garages. The existing residence was constructed in the early 1900s, and no off-street parking was provided on the site. Under proposed conditions, vehicles will be able to park in the proposed garage as well as the new open parking

space, thereby removing vehicles from the street while maintaining existing street parking for visitors and the public.

Finding:

- B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. The Zoning Code requires that new single-family residences include a two-car garage that is a minimum of 17 feet 6 inches in width (on a 25-foot wide lot) and 19 feet deep. The side yard of the subject lot abuts the West Ocean Front Alley, which is where access to the site must be taken per Council Policy L-2 (Driveway Approaches). The total depth of the site as measured from the alley property line to the side (interior) property line is only 25 feet. Further, the side setback requirement is 3 feet for each side. Therefore, the buildable depth of the lot is only 19 feet (25 feet minus 6 feet of setbacks). Garage walls are typically 6 inches thick, further reducing the interior clear depth to 18 feet. Therefore, because the lot is only 25 feet wide and vehicle access is from the side yard, a 19-foot garage depth is not physically possible.
2. The granting of the Modification Permit is necessary to allow the construction of a new single-family residence that meets all other development standards. Additionally, the reduction in depth is negligible in that it would still allow two vehicles to park inside. The design also includes a voluntary third car space that is uncovered in the rear, which meets the minimum depth and width requirements of 19 feet by 10 feet.

Finding:

- C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Fact in Support of Finding:

1. The proposed single-family residence could not be legally constructed without the requested modification permit to reduce the depth, or a variance to allow the required garage to encroach into the side setbacks. Thus, strict application of the Zoning Code would prohibit a new residence from being constructed. The purpose and intent of Zoning Code Chapter 20.40 (Off-Street Parking) is to provide sufficient off-street parking to serve on-site land uses, which in this case is the new single-family residence. The proposed project provides three off-street parking spaces to serve the residential use whereas the existing structure provides none.

Finding:

- D. *There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

1. Increasing the depth of the garage to 19 feet would require the building to encroach 6 inches into the required side setback of 3 feet. Review and approval of a variance would be required to allow this deviation. Furthermore, relief from the IP setback development standards would also be required to implement this alternative. The deviation to the setback requirement may impact the privacy of surrounding residents or reduce maneuverability of the alley.
2. The design could be modified to allow access via 32nd Street instead of the alley. However, this would conflict with Council Policy L-2 (Driveway Approaches), which limits the number of curb cuts in order to reduce the points of traffic conflict and prohibits the creation of new curb cuts for residential developments where there is alley access available. Furthermore, a new curb cut and driveway approach along 32nd Street would not be consistent with the pattern of development in the area as there are no driveways located along this section of 32nd Street.
3. The applicant could construct a two-car carport in lieu of a garage, which would require a modification permit to allow relief to the type of required parking. Relief to IP development standards with a coastal development permit would also be required to implement this alternative. Carport walls would still likely obstruct the required 19-foot clear dimensions, without providing the benefit of a garage. Further, because the carports are not included in the gross square footage allowed for the property, the square footage devoted to the garage could be replaced on the second or third floors, which would increase the bulk and mass of the structure.
4. Instead of constructing a new residence, the applicant could remodel the existing building and add less than 10 percent to the existing structure without providing additional parking. In order to add more than 10 percent to the existing building, a Modification Permit would still be required. These alternatives would result in almost complete reconstruction of the home due to the age of structure and not meet the objectives of the applicant. Neither of these solutions provides off-street parking, nor do they provide similar benefits to the applicant. Any other existing legal nonconformities, such as setback encroachments into the side and rear yard, would remain.

Finding:

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

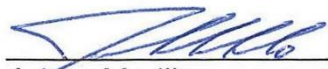
Facts in Support of Finding:

1. The proposed deviation for the two-car garage, would not impact light, air, and privacy of surrounding neighbors. The new single-family residence will be consistent in scale with other dwellings in the neighborhood.
2. The proposed project would comply with all other development standards such as height, setbacks, and maximum floor area.
3. The proposed project maintains the minimum 3-foot side yard for fire access in accordance with [Zoning Code Section 20.30.110 \(Setbacks Regulations and Exceptions\), Subsection A\(1\)\(c\)](#).
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and included a condition of approval for demonstration of project compliance with Building Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2019-006 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 13th DAY OF FEBRUARY 2020.

Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. A third parking space measuring a minimum of 10 feet in width and 19 feet in length shall be maintained free and clear of any obstructions within the rear yard setback as depicted on the floor plan.
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 Modification Permit.
5. *Modification Permit No. MD2019-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
6. This Modification 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.
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. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
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. *Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday.*

Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

11. 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 Hwang Residence including, but not limited to, Modification Permit No. MD2019-006 (PA2019-175). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

12. The applicant is required to obtain all applicable permits from the City's Building Division. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

RESOLUTION NO. ZA2020-016

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2019-047 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE WITH A THREE-CAR GARAGE AND ACCESSORY STRUCTURES LOCATED AT 1140 WEST BAY AVENUE (PA2019-174)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bradford C. Smith, Architect (Applicant), with respect to property located at 1140 West Bay Avenue, requesting approval of a coastal development permit.
2. The lot at 1140 West Bay Avenue is legally described as Lot 1, Block 4 of Tract 626.
3. The Applicant proposes a coastal development permit (CDP) to allow the demolition of an existing single-family residence and the construction of a new three-story, 4,052-square-foot, single-family residence, including an attached 740-square-foot, three-car garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. No work will be conducted bayward of the existing bulkhead. The design complies with all applicable development standards and no deviations are requested.
4. 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.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-C) (10.0 – 19.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on February 13, 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 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 demolition of one single-family residence and the construction of a new 4,052-square-foot, single-family residence with an attached 740-square-foot, three-car garage. The proposed project is a new single-family residence 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 Newport Beach Municipal Code (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 residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 5,489 square feet and the proposed floor area is 4,792 square feet.
 - b. The proposed development provides or exceeds the minimum required setbacks, which are 25 feet along the front property line abutting Newport Bay, 4 feet along each side property line, and 5 feet along the second frontage abutting West Bay Avenue.
 - c. The highest guardrail is 24 feet from established grade (9.53 feet based on the North American Vertical Datum of 1988 [NAVD88]) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of living area.

2. The neighborhood is primarily developed with two-story, single-family residences and, particularly on the opposite side of West Bay Avenue, multi-family structures. Newer residential developments in the neighborhood are three stories and the proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development consistent with applicable development standards.
3. Located on the northern extent of the Newport Peninsula, between 12th Street and 11th Street, the site is a private bay front parcel. An existing seawall centrally protects the site with the top of the bulkhead at an approximate elevation of 9.5 feet based on the North American Vertical Datum of 1988 (NAVD88). The on-site privacy wall located along the 12th Street side is a secondary shoreline protective device. As described in the project's bulkhead condition report, visual inspection of the bay front seawall revealed that the structure appears to be in good condition and is not in need of maintenance. However, existing structures and improvements prevent a precise determination of its adequacy if it is found necessary to add protection up to the required elevation of 10.60 feet (NAVD88). The side-facing shoreline protection wall should be replaced if needed. The report recommends a structural assessment of both the bay and side property walls after removal of the site's rear patio. If the bay wall proves adequate, then the elevation of the top of the shore protection will be capped to the minimum elevation of 10.6 feet (NAVD88). Alternatively, if it is determined the bay front wall requires replacement, a new bulkhead will be constructed to the minimum elevation of 10.6 feet (NAVD88).
4. GeoSoils, Inc. prepared the project's Coastal Hazards and Bulkhead Condition Report, dated October 29, 2019. As described above, this report directs additional investigation of the existing seawall's structure to help determine whether a cap or an entirely new seawall will be required up to the minimum 10.6-foot (NAVD88) elevation. Newport Bay's historical design flood elevation is 7.7 feet (NAVD88). In employing the high estimate of the "low risk aversion" scenario for sea level rise from the California Ocean Protection Council, the projection is a 2.9-foot increase in sea level rise (or overall elevation of 10.6 feet [NAVD88]) for the next 75 years. Waves resulting from wakes and winds pose the possibility to reach the shore protection fronting the site. The site has not been subject to flooding, erosion damage, or wave runup attack in the past. Based on the calculated wave run up under the current 100-year recurrence interval conditions, future sea level rise of more than 2 feet could enable boat wakes during high tides to overtop the bulkhead. For this reason, after the patio demolition, the report advises an analysis of the existing wall to achieve an added wall height of 12.5 feet (NAVD88), in keeping with the adaptation strategy from the CCC Sea Level Rise Policy Guidance (2018). Ultimately, the GeoSoils, Inc. study recognizes that the new or modified bulkhead with the minimum 10.6-foot (NAVD88) elevation and the maintenance of the 12th Street privacy wall would protect the proposed development from any existing or anticipated future coastal hazards for the next 75 years or more. During this 75-year period, no additional shoreline protective devices will be necessary to protect the proposed development.

5. Pursuant to Newport Beach Municipal Code (NBMC) Subsection 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 such as 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 Subsection 21.30.015(D)(3)(c).
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 CBC prior to building permit issuance.
 1. The property is located adjacent to coastal waters. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. The WQHP would include a polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), use of an LID (Low Impact Development) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
7. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping) by incorporating drought-tolerant, non-invasive plant species and a water efficient irrigation design. Condition of Approval No. 22 requires the approval of a final landscape plan prior to the issuance of a building permit.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline, but the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The nearest coastal access opportunity is currently provided at the north ends of 12th and 11th Street: the first directly abuts the subject site and the latter lies approximately 360 feet westward of the subject site.
2. Vertical access to the public beach is available along the south street ends of 12th Street and 11th Street, between 580 and 700 feet away from the project site. The public beach to the south also includes a 12-foot-wide public sidewalk along West Ocean Front, providing lateral access and views of the beach. The proposed replacement of the existing single-

family residence with a new single-family residence does not include any features that would provide or inhibit coastal public access opportunities.

3. The 12th Street public right-of-way will remain free and clear of any obstructions during construction and new or existing improvements (including landscaping and construction activities) are *not* authorized on State tidelands, public beaches, or the public right-of-way.
4. The property is not located near designated public viewpoints or coastal view roads. The nearest public viewpoint is located at the City's Marina Park Community and Sailing Center, approximately 1,500 feet westward of the property. Due to the distance of the proposed development from the public viewpoints and the project's compliance with height and setbacks, the project will not impact coastal views. The proposed single-family residence complies with all applicable development standards and maintains front setback areas consistent with the existing neighborhood pattern of development. The project does not contain any unique features that could degrade the visual quality of the coastal zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2019-047, 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 NBMC Title 21 Local Coastal Implementation Plan. Final action taken by the City may be appealed to the Coastal Commission in compliance with NBMC 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 13TH DAY OF FEBRUARY, 2020.



Jaime Murillo
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. This Coastal Development Permit does not authorize any development seaward of the private property. Should the bulkhead require repair or replacement with construction equipment bayward of the private property, an additional coastal development permit shall be obtained for the bulkhead from the California Coastal Commission.
3. *Prior to the issuance of a demolition permit for the principal dwelling, the Applicant shall take the minimum steps necessary to assess the structural integrity of the primary and secondary shoreline protective devices.*
4. *Prior to the issuance of a demolition permit for the principal dwelling, the Applicant shall obtain approval from the California Coastal Commission to increase the height of the existing bulkhead to a minimum elevation of 10.6 feet (NAVD88) or replace the existing bulkhead with a new bulkhead at a minimum elevation of 10.6 feet (NAVD88).*
5. *The 12th Street public right-of-way shall remain free and clear of any obstructions during construction, unless otherwise permitted.*
6. 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 including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
7. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
8. 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.

9. This approval does not authorize any new or existing improvements (including landscaping and construction activities) on State tidelands, public beaches, or the public right-of-way.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
12. 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.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
15. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
17. Prior to the issuance of a building permit, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
18. Prior to the issuance of a building permit, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.

20. Prior to the 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 Permit 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.
21. Prior to issuance of a building permit, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
22. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
23. 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.
24. 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.
25. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
27. This Coastal Development Permit No. CD2019-047 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.
28. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Wells Residence including, but not limited to, Coastal Development Permit No. CD2019-047 (PA2019-174). 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. ZA2020-017

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO. XP2019-010 AND COASTAL DEVELOPMENT PERMIT NO. CD2019-059 FOR A LIMITED-DURATION CHARTER BOAT OPERATION LOCATED AT 2406 NEWPORT BOULEVARD AND TEMPORARY USE OF OFF-SITE PARKING LOCATED AT 2000 WEST BALBOA BOULEVARD (PA2019-236)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by SoCal Cycleboats (“Applicant”), with respect to property located at 2406 Newport Boulevard, and legally described as Parcel 1 of Resubdivision No. 375; and 2000 West Balboa Boulevard, legally described as Parcel 1 of Resubdivision No. 649; requesting approval of a limited term permit (more than 90 days) and associated coastal development permit.
2. The Applicant requests a limited term permit (more than 90 days) and associated coastal development permit (CDP) to allow the temporary operation of a charter boat business with off-site parking for up to one (1) year. The boat will be docked within an existing slip accessible from 2406 Newport Boulevard. Hours of operation are from 9 a.m. to 10 p.m. Parking is proposed to be provided as five (5) off-site spaces located at 2000 West Balboa Boulevard, approximately 0.2-miles from the dock site.
3. The subject property is designated Mixed-Use Water Related (MU-W2) by the General Plan Land Use Element and is located within the Mixed-Use Water Related (MU-W2) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water (MU-W) and it is located within the Mixed-Use Water Related (MU-W2) Coastal Zoning District.
5. A public hearing was held on February 13, 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 Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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. Class 1 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Class 4 exempts minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. In this case, the proposal is a limited term permit and associated coastal development permit for the operation of a cycleboat operation at an existing dock and results in no physical alterations.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

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

Finding:

- A. *The operation of the limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use.*

Facts in Support of Finding:

1. The Limited Term Permit will allow for the temporary operation of a cycleboat boat operation for up to one (1) year. The operation would use an on-site dock slip at 2406 Newport Boulevard and provide parking through an off-site parking arrangement with Balboa Fun Tours at 2000 West Balboa Boulevard.
2. The proposed cycleboat operation will be used and operated independently, but complementary to, the existing uses on-site and others in the vicinity that foster coastal activity for residents and visitors. Food service or alcohol sales bayward of the property would be prohibited, and the designated slip space of this approval will not be used by patrons of the restaurant.

Finding:

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

Facts in Support of Finding:

1. SoCal Cycleboats proposes to operate and house one (1) charter boat in an existing dock slip at 2406 Newport Boulevard. More specifically, the watercraft is a captained cycleboat, almost entirely human-powered by cycling passengers. Standard seating is also available for those who do not wish to pedal. Approximately 15 persons, including passengers and employees, are anticipated to occupy the watercraft at any given time. Since no similar marine business exists in the City, the Harbormaster referred this application to the Harbor Commission, which provisionally approved a marine activities permit for the operation on November 11, 2019, subject to obtaining zoning compliance.
2. The dock site fronts the Newport Bay, south of 26th Street on the Newport Peninsula, and measures roughly 0.34 acres in size. Present improvements include a restaurant with 2,040 square feet of net public area, a 42-space parking lot, and three (3) accessory dock slips. Pedestrian access to the dock slips is provided through an on-site walkway.
3. At the January 16, 2020 meeting, the Zoning Administrator approved Dolphin Rental Newport Beach Boat Rental (PA2019-074), which allows the temporary use (up to one [1] year) of one (1) of the three (3) dock slips for a boat rental business and a shared on-site parking arrangement with the restaurant. This operation is unaffiliated with the subject application. The subject proposal would use a separate dock slip on-site and will not depend on or conflict with Dolphin Rental Newport Beach whatsoever. Whereas Dolphin Rental Newport Beach rents “duffy” boats and other watercraft to be captained solely by the renter, SoCal Cycleboats would manage a single boat outfitted with a captain and deckhand to attend to the cycling passengers. The Applicant’s project description explains that each boat outing on the Harbor is prescheduled and lasts approximately 90 minutes. Considering that SoCal Cycleboats has just one boat and would have two (2) dedicated employees at all times to coordinate and direct their passengers, the introduction of the operation is not anticipated to create a conflict with Dolphin Rental Newport Beach.
4. Five (5) dedicated surplus off-site parking spaces to serve the proposed operation are located approximately 0.2 miles southeastward of the proposed dock site within the Balboa Fun Tours’ 19-space parking lot located at 2000 West Balboa Boulevard. The off-site parking lot is directly accessible from a driveway approach off 20th Street. Estimations from Google Maps calculate a distance of a five (5)-minute walk between the off-site parking location (2000 West Balboa Boulevard) to the dock slip site (2406 Newport Boulevard), and vice versa. As part of the review for this proposal, the Code Enforcement Division provided Condition of Approval No. 6 that requires signage for the five (5) dedicated surplus off-site parking spaces to be identifiable and used only by SoCal Cycleboat patrons.
5. The temporary use would utilize one (1) dock and one (1) boat with approximately 15 passengers and staff at any given time. Hours of operation are conditioned to between 9 a.m. and 10 p.m., daily. No construction or physical alterations to the site are proposed.

6. The dock site is surrounded by mixed-use properties to the north and south, Newport Boulevard to the west, and the bayfront to the east. The cycleboat operation use is commensurate with others in the vicinity and will provide additional coastal recreational opportunities. The proposed off-site parking location is existing and the utilization of these spaces by the operator will not result in a new or negative impact to the surrounding properties.
7. Approval of this project will not result in any construction or physical alterations to the site.

Finding:

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

Facts in Support of Finding:

1. Parking for the proposed charter boat operation will be provided through surplus spaces through an off-site parking lot located at 2000 West Balboa Boulevard. This off-site parking location has a direct driveway approach taken from west side of 20th Street. The existing dock to be used by the operation is located at the rear of the lot through a walkway from the restaurant parking lot. The proposed temporary boat charter operation will not impede access to the existing lot. There are no anticipated traffic issues.
2. Reference Fact in Support of Finding A.1.

Finding:

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

Facts in Support of Finding:

1. Table 3-10 of NBMC Section 20.40.040 (Off-Street Parking Spaces Required) requires one (1) parking space per each three (3) passengers and crew members for the proposed "Entertainment and Excursion Service" land use. Since about 15 persons would occupy the watercraft, the projected temporary parking demand would be five (5) parking spaces. The site for the dock slip is nonconforming due to parking, and the applicant requests to temporarily use five (5) surplus off-site parking spaces at 2000 West Balboa Boulevard for the limited duration. Balboa Fun Tours presently operates in a 2,320-square-foot office at the 2000 West Balboa Boulevard location as a "Retail Service" land use. Table 3-10 of NBMC Section 20.40.040 requires parking for retail services use at least one (1) parking space for every 250 square feet of gross floor area with a resultant demand of 10 spaces for the existing rental use (250 sq. ft. / 2,320 sq. ft. = 10 spaces). An active plan check is on file to improve the 19-space parking lot at

2000 West Balboa Boulevard, inclusive of restriping and accessibility upgrades. The ultimate lot configuration will provide a surplus of five spaces, which will be dedicated to the proposed use on a temporary basis.

2. Applicant expressed the anticipation that patrons of the proposed rental operation will rely on carpooling or ride-share services for transportation to the site, which may further assist to minimize the potential for parking impacts on-site.
3. Because adequate parking will be provided by way of the off-site lot, public parking availability for coastal access will not be affected by project implementation in accordance with NBMC Section 21.40.110(A) (Impact to Coastal Access Prohibited).

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use designation for this site is MU-W2 (Mixed-Use Water Related). The MU-W2 designation is applied to waterfront locations in which marine-related uses may be intermixed with buildings that provide residential uses on the upper floors. Pursuant to NBMC Subsection 20.52.040(D)(2), off-site parking for uses requiring a marine activities permit is permissible with the approval of a limited term permit. The proposed off-site parking arrangement for the boat charter (marine activity) is a visitor-serving use dependent on the harbor, is authorized for a limited duration, and will not impede use of the site consistent with the MU-W2 designation.
2. The Mixed-Use Water (MU-W) Coastal Land Use of the subject site is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related, and visitor-serving uses. The proposed boat rental use is a coastal-dependent use that requires close proximity to the bay.
3. The site is not located within a specific plan area.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The MU-W Coastal Land Use is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related and visitor-serving uses. The proposed boat rental use is a coastal-dependent use that requires close proximity to the bay.
2. Reference Fact in Support of Finding E.2.
3. As demonstrated in Fact in Support of Finding D.1 of this resolution, the five (5) surplus parking spaces required by Code will be provided off-site. That being the case, public parking availability for coastal access will not be affected by project implementation in accordance with NBMC Section 21.40.110(A) (Impact to Coastal Access Prohibited.).
4. Landscaping is not proposed as a part of this project, and project approval will not result in any construction or physical alterations to the site.

Finding:

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

Facts in Support of Finding:

1. While the proposed sites are located between the nearest public road and the sea or shoreline, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. While the project sites are located between the nearest public road and the sea or shoreline, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The closest coastal public access opportunity is located less than 80 feet northward from 2406 Newport Boulevard at the east end of 26th Street. Approximately 900 feet southeastward of 2406 Newport Boulevard, on Lido Park Drive, lies the closest designated public viewpoint. From the off-site parking location at 2000 West Balboa Boulevard, the closest coastal public access point is around 480 feet away at the public beach of Marina Park Community and Sailing Center. The nearest designated public viewpoint for 2000 West Balboa Boulevard is also located at Marina Park. The proposed dock to be used for cycleboat business is existing and no construction or physical alterations are proposed; consequently, the proposal bears no impact on coastal access, views, or recreational opportunities.
3. The proposed charter boat operation will provide additional recreation options to residents and visitors and encourage enhanced access to and usage of the bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 (Existing Facilities) and 15304 (Minor Alterations to Land) under Class 1 and Class 4, respectively, 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 Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059, 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 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 13th DAY OF FEBRUARY, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. *The parking lot at 2000 West Balboa Boulevard shall maintain five surplus parking spaces designated for the cycleboat operation during the limited term use. Upon failure to maintain the dedicated five surplus parking spaces, the Applicant shall cease operation immediately until the required parking is provided to the satisfaction of the Planning Division, which may include an amendment to this Limited Term Permit or the processing of a new limited term permit.*
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Limited Term Permit and/or Coastal Development Permit.
4. *The restaurant and the boat charter operations are to remain independent uses. Food service or alcohol sales bayward of the property is prohibited.*
5. *Prior to operation, the five (5) required off-site parking spaces shall be designated with signage to the satisfaction of the Code Enforcement Division.*
6. *The hours of operation for the charter boat operation shall be limited to 9 a.m. to 10 p.m., daily.*
7. *The designated slip shall be exclusively for the boat charter operation and shall not be used for the watercraft of restaurant patrons.*
8. *The existing dock system shall not be improved or otherwise modified without review and approval from the City of Newport Beach and/or the California Coastal Commission, including, but not limited to, the acquisition of a new coastal development permit.*
9. *A marine activities permit (MAP) shall be obtained prior to operations.*
10. Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060, unless an extension is otherwise granted.
11. This Limited Term Permit and 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require an amendment to this Coastal Development Permit and Limited Term Permit or the processing of a new Coastal Development Permit and Limited Term Permit.
13. This Limited Term Permit shall expire twelve (12) months from the issued date of the MAP approval, unless an extension of up to one (1) additional period of twelve (12) months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions). A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.
14. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
	Interior	Exterior	Interior	Exterior
Residential Property	45dBA	55dBA	40dBA	50dBA
Residential Property located within 100 feet of a commercial property	45dBA	60dBA	45dBA	50dBA
Mixed Use Property	45dBA	60dBA	45dBA	50dBA
Commercial Property	N/A	65dBA	N/A	60dBA

15. 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.
16. No outside paging system shall be utilized in conjunction with this establishment.
17. Trash receptacles for patrons shall be conveniently located to serve the cycle boat patrons, however, not located on or within any public property or right-of-way.
18. 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 20 feet of the premises.
19. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

20. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of a required trash container enclosure.
21. 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 Newport Beach Municipal Code to require such permits.
22. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
23. 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 SoCal Cycleboats Boat Rental including, but not limited to, Limited Term Permit No. XP2019-010 and Coastal Development Permit No. CD2019-059 (PA2019-236). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

FIRE

24. Multiple Berthing shall be prohibited as per Amendment 9.04.400 to California Fire Code Section 3603.6.1 which states: "All vessels in marinas shall be arranged such that a vessel occupying a slip can be readily removed in an emergency without the necessity of moving other vessels."