



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending March 13, 2020.

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### ZONING ADMINISTRATOR ACTIONS MARCH 12, 2020

- Item 1: Biggs Lot Line Adjustment No. LA2019-003 (PA2019-232)  
Site Location: 408 Carlotta
- Action: Approved by Resolution No. ZA2020-022 Council District 4
- Item 2: 428 Fernleaf, LLC Condominiums Coastal Development Permit No. CD2019-066 and Tentative Parcel Map No. NP2019-012 (PA2019-231)  
Site Location: 428 Fernleaf Avenue
- Action: Approved by Resolution No. ZA2020-023 Council District 6
- Item 3: Newport Center Monument Signs Modification Permit No. MD2019-007 and Coastal Development Permit No. CD2019-070 (PA2019-209)  
Site Location: 1401 and 1402 Newport Center Drive
- Action: Approved by Resolution No. ZA2020-024 Council District 5
- Item 4: Newport Auto Center Temporary Inventory Storage Limited Term Permit No. XP2019-012 (PA2019-255)  
Site Location: 101 Bayside Drive
- Action: Approved by Resolution No. ZA2020-025 Council District 5
- Item 5: Belt Capital Properties, LLC Condominium Conversion No. CC2020-001, Tentative Parcel Map No. NP2020-001, Modification Permit No. MD2020-001 and Coastal Development Permit No. CD2020-003 (PA2020-004)  
Site Location: 945 and 947 West Balboa Boulevard
- Action: Approved by Resolution No. ZA2020-026 Council District 1

Item 6: Theders Residence Coastal Development Permit No. CD2020-002 (PA2020-005)  
Site Location: 619 36th Street

Action: Approved by Resolution No. ZA2020-027 Council District 1

Item 7: Vincent Residence Coastal Development Permit No. CD2020-007 (PA2020-012)  
Site Location: 1502 South Bay Front

Action: Approved by Resolution No. ZA2020-028 Council District 5

**COMMUNITY DEVELOPMENT DIRECTOR  
OR PLANNING DIVISION STAFF ACTIONS**  
(Non-Hearing Items)

Item 1: Chihuahua Brewing Live Entertainment Limited Term Permit No. XP2020-001 (PA2020-017)  
Site Address: 3107 Newport Boulevard

Action: Approved Council District 1

**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2020-022

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LOT LINE ADJUSTMENT NO. LA2019-003 FOR A LOT LINE ADJUSTMENT GENERALLY LOCATED AT 408 CARLOTTA (PA2019-232)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Dennis Biggs (“Applicant”), with respect to property held in common by the Bluffs Homeowners’ Association (HOA) and private residential property located at 408 Carlotta, and legally described as Lots 14, 11, and 11G of Tract No. 5463, respectively, requesting approval of a lot line adjustment.
2. The Applicant proposes to add approximately 600 square feet of the Bluffs Homeowners Association (HOA) property (Lot 14) to a private residential property at 408 Carlotta (Lot 11). The subject area is located at the entrance to the dwelling and between the dwelling and the garage. There will be no change in the number of lots as a result of this application.
3. The subject property at 408 Carlotta is designated RS-A (Single-Unit Residential Attached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District. The adjacent HOA property is designated OS (Open Space) by the General Plan Land Use Element and is located within the OS (Open Space) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on March 12, 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 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. 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 but not limited to minor lot line adjustments not resulting in the creation of any new

parcel. The proposed lot line adjustment affects the shared property line between two (2) parcels and is for the purpose of creating a larger lot at 408 Carlotta to match the existing lot lines of similar parcels within the Eastbluff Community. There will be no change in land use, density, or intensity.

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 19.76.020 (Procedures for Lot Line Adjustments), 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 property at 408 Carlotta is currently developed with a single-family residence. The adjacent HOA property serves as common area between the dwelling units and includes a greenbelt. The proposed Lot Line Adjustment will not change the existing General Plan Land Use or Zoning District of any of the two parcels.
2. The proposed Lot Line Adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. The Eastbluff Community is developed with attached homes in clusters of two (2) to four (4) units. The common HOA lot provides for building separation between these clusters. The 408 Carlotta property will continue to allow for single-unit development consistent with the applicable General Plan Land Use and Zoning designation. The lots will maintain their current Zoning and General Plan designation and the uses will continue to be consistent with these designations.
3. Future development at both lots will continue to be required to comply with all applicable development standards specified by the R-1 (Single-Unit Residential) and Open Space (OS) Zoning Districts, respectively. Accessory structures are permissible on the expanded parcel under the existing land use designations and zoning districts.

4. The proposed Lot Line Adjustment is consistent with the purpose identified in NBMC Chapter 19.76 (Lot Line Adjustment). The Lot Line Adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where land taken from one lot and is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment. The garage will remain on a separate lot (Lot 11G).
5. The Lot Line Adjustment is consistent with the General Plan, and does not negatively impact surrounding land owners, as the adjustment affects interior property lines between two (2) adjacent lots. The existing land uses will remain and have not proven to be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

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. The garage will remain on a separate lot (Lot 11G).

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 408 Carlotta property (Lot 11) and associated garage (Lot 11G) is located within the R-1 (Single Unit Residential) Zoning District, which is intended to permit attached single-unit dwellings. The HOA property (Lot 14) is located within the OS (Open Space) Zoning District, which is intended to maintain and protect open space areas. The proposed lot line adjustment will not change the existing use of the parcels affected. Future development at both lots will continue to be required to comply with all applicable development standards specified by the R-1 (Single-Unit Residential) and Open Space (OS) Zoning districts, respectively.
2. The proposed boundary adjustment will change the internal property lines between the subject properties, reallocating approximately 600 square feet of land from Lot 14 to 408 Carlotta (Lot 11). The purpose of the lot line adjustment is to create a larger lot at 408 Carlotta to match the existing lot lines of similar parcels within the Eastbluff Community and to allow for wall and patio improvements at the entry.

3. The subject properties are located within the Eastbluff Community, which was developed as a Planned Residential Development (PRD) in 1965. The proposed 408 Carlotta parcel will continue to maintain the minimum site area requirement of the original PRD, with a proposed lot area of 1,938 square feet. There are no minimum lot area requirements for properties within the OS Zoning District.

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 lots. Legal access to the two (2) properties will be maintained along Carlotta, thus access to the subject properties will not be 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 408 Carlotta is from Carlotta, and the final configuration will not change. Vehicular access to the HOA property, Lot 14, is from Carlotta, Vista Del Oro, and Vista Cajon 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 Zoning District shall continue to apply to the adjusted parcels per the Planned Community Development.

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 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. LA2019-003, 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 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

**PASSED, APPROVED, AND ADOPTED THIS 12<sup>TH</sup> DAY OF MARCH, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to the recordation of the Lot Line Adjustment, the Applicant shall submit the exhibits to the Public Works Department for final review.
3. 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 Biggs Lot Line Adjustment including, but not limited to, Lot Line Adjustment LA2019-003 (PA2019-232). 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. ZA2020-023

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2019-012 AND COASTAL DEVELOPMENT PERMIT NO. CD2019-066 FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 428 FERNLEAF AVENUE (PA2019-231)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JFB Custom Homes (“Applicant”), with respect to property located at 428 Fernleaf Avenue, and legally described as Lot 10, Block 433, of the Corona del Mar Tract, requesting approval of a tentative parcel map and a coastal development permit for condominium purposes.
2. The Applicant requests a coastal development permit (CDP) and tentative parcel map for two (2)-unit condominium purposes. A single-family dwelling has been demolished and a new duplex is currently under construction. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually. The Tentative Parcel Map also requires the approval of a coastal development permit pursuant to NBMC Title 21 (Local Coastal Program Implementation Plan).
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is also located within the coastal zone. The Coastal Land Use Plan designation is Two Unit Residential (20.0 – 29.9 DU/AC) (RT-D) and it is within the Two-Unit Residential (R-2) Coastal Zoning District.
5. A public hearing was held on March 12, 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 NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division

is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

#### *Coastal Development Permit*

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of NBMC Title 21 (Local Coastal Program Implementation Plan) and approves the coastal development permit based on the following findings per NBMC Subsection 21.52.015(F):

#### Finding:

*A. That the proposed map conforms to all applicable sections of the certified Local Coastal Program.*

#### Facts in Support of Finding:

1. The Tentative Parcel Map is for condominium purposes and meets all of the requirements of the Local Coastal Program, including NBMC Section 21.30.025 (Coastal Zone Subdivisions).
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies. This was addressed during the plan check review. The permit has been issued and the new duplex is under construction.
3. The Tentative Parcel Map is for a property within a developed residential neighborhood. The subject property is approximately 1,600 feet from the Harbor entrance and lies within the Categorical Exclusion Area. The demolition of the single-family residence and development of the duplex was approved pursuant to the City's Categorical Exclusion Order (CEO2019045).

#### Finding:

*B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is 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. In this case, the project is a tentative parcel map for condominium purposes. A single-family dwelling has been demolished and a new duplex is under construction meeting all condominium standards. As such, 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.

*Tentative Parcel Map*

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. A single-family dwelling has been demolished and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the broken and/or otherwise damaged sidewalk panels, curb/gutter and street along the Fernleaf Avenue property frontage, as well as any damaged concrete alley panels consistent with NBMC Title 19 (Subdivision Code).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a duplex development because it is rectangular in shape, topographically flat, and was previously developed with a duplex.
2. The subject property is accessible from the alley and is adequately served by existing utilities.

Finding:

*E. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. A single-family dwelling has been demolished and a new duplex is currently under construction. There will be no change in land use or density as a result of this project.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the CEQA Guidelines – Class 15 (Minor Land Alterations).

Finding:

*F. That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

*G. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to*

*determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

*H. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site is developed for residential use and is located in a Zoning District that permits residential uses.

Finding:

*I. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

*J. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.*

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

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

Fact in Support of Finding:

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

Finding:

*L. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The design of the new duplex was reviewed as part of the building permit plan check process and will be constructed such that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

*M. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is within the Coastal Zone. The Facts in Support of Findings A and B above are hereby incorporated by reference.

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 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2019-012 and Coastal Development Permit No. CD2019-066, 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 Program 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 12<sup>TH</sup> DAY OF MARCH, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**PLANNING**

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
3. Prior to the recordation of the Parcel Map, an In-Lieu Park Dedication fee shall be assessed for the increase in density by one (1) ownership dwelling unit. The fee paid shall be consistent with that in effect at the time of payment.
4. The building permit for the new construction shall not be final until after recordation of the Parcel Map.
5. 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 NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan).
6. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the 428 Fernleaf, LLC Condominiums including, but not limited to, Tentative Parcel Map No. NP2019-012 and Coastal Development Permit No. CD2019-066 (PA2019-231). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.



**PUBLIC WORKS**

6. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub-article 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
7. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub-article 18. Monuments (one [1]-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. The Applicant shall repair and/or replace all damaged street, sidewalk panels and curb/gutter along the Fernleaf Avenue property frontage and any damaged concrete alley panels along the alley property frontage, as determined by the Public Works Department.
10. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed per City standard with a traffic-grade box and cover.
11. There are no above ground improvements permitted within the five (5)-foot rear alley setback area.
12. An encroachment permit is required for all work activities within the public right-of-way.
13. All existing private improvements, including rocks and pavers within the public right-of-way fronting the development site shall be removed.
14. The Applicant shall install new sod or low groundcovers of the type approved by the City throughout the Fernleaf Avenue parkway fronting the development site.
15. All improvements shall comply with the City's sight distance requirement. See City Standard STD-110-L.
16. Abandon the existing driveway approach along the Fernleaf Avenue frontage per City Standard STD-165-L.

17. All existing overhead utilities shall be undergrounded.
18. The Applicant shall install a new 36-inch box street tree along the Fernleaf Avenue public right-of-way.
19. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

**BUILDING**

20. Independent utility services shall be provided for each unit.
21. Independent fire risers shall be required for each unit.
22. All construction shall comply with the California Code of Regulations.

## RESOLUTION NO. ZA2020-024

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MODIFICATION PERMIT NO. MD2019-007 AND COASTAL DEVELOPMENT PERMIT NO. CD2019-070 TO REPLACE AND INCREASE THE SIZE OF TWO EXISTING MONUMENT SIGNS LOCATED AT 1401 AND 1402 NEWPORT CENTER DRIVE (PA2019-209)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Irvine Company Retail Properties (Applicant), with respect to properties located at 1401 and 1402 Newport Center Drive, requesting approval of a modification permit and coastal development permit.
2. The lot at 1401 Newport Center Drive is legally described as Parcel A in Resubdivision 0465 and the lot at 1402 Newport Center Drive is legally described as Parcel A in Resubdivision 1006.
3. The Applicant requests a modification permit and coastal development permit to amend previously approved Modification Permit No. MD2011-018 for two freestanding, double faced signs located at the northeast and northwest corners of the intersection of East Coast Highway and Newport Center Drive. The amended Modification Permit would allow an increased maximum sign height of 10 feet, 3 inches and maximum width of 13 feet, 9 inches. The amended Modification Permit would also allow an increased maximum sign area of 93 square feet. Each sign is located on a separate parcel, 1401 and 1402 Newport Center Drive. 1402 Newport Center Drive is located within the Coastal Zone and requires a coastal development permit that includes a variance to the maximum height allowance and a modification to the 75-square-foot maximum sign area allowance for a monument sign in Title 21 (Local Coastal Program Implementation Plan). This Modification Permit will supersede and replace Modification Permit No. MD2011-018.
4. The subject properties are designated Open Space (OS) by the General Plan Land Use Element. 1401 Newport Center Drive is located within the PC-17 (Corporate Plaza) Zoning District and 1402 Newport Center Drive is located within the PC-40 (Corporate Plaza West) Zoning District.
5. The property at 1401 Newport Center Drive is not located in the coastal zone. The property at 1402 Newport Center Drive is located within the coastal zone. The Coastal Land Use Plan category is Open Space (OS) and it is located within the PC-40 Corporate Plaza West Coastal Zone District.
6. A public hearing was held on March 12, 2020, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code

(NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15311, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 11 (Accessory Structures), because it has no potential to have a significant effect on the environment. Class 11 allows for the construction or replacement of minor accessory structures to existing commercial facilities. The proposed project is the replacement of signs accessory to the Fashion Island/Newport Center regional commercial area.
2. 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.

### ***Modification Permit***

Pursuant to NBMC Section 20.42.110 (Modification Permit), deviations in sign height greater than 20 percent and sign area greater than 30 percent are subject to the approval of a modification permit. In accordance with NBMC Section 20.52.050 (Modification Permits), 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 proposed replacement monument signs will maintain their existing location within the ¼--round landscape areas on both sides of the Newport Center Drive entrance into Newport Center from East Coast Highway. The monument signs are accessory to the primary use of a landscaped entry point to Newport Center. These areas are open space entry points to Newport Center. These landscaped areas create an enhanced entry and serve as the only entry from East Coast Highway. The nominal increase in the size and scale of the signs are complementary to the landscape areas and will not significantly diminish nor will they negatively impact the open space character.

2. The proposed size and scale of the signs are complementary to the approximately 1.5 acres each landscape areas and will not significantly diminish or negatively impact the open space character.
3. Use Permit No. UP3131, originally approved in 1985, and subsequently amended in 1989, and again in 1993, allowed for the installation of a network of freestanding signs at the major entrances into Newport Center. The development consists of freestanding cube and monument signs at the Santa Barbara entrance from Jamboree Road, the Santa Cruz Road and Santa Rosa Drive entrances from San Joaquin Hills Road, the San Miguel Drive entrance from MacArthur Boulevard, the southwest corner of San Joaquin Hills Road and MacArthur Boulevard, and the northeastern and southeastern corners of Jamboree Road and San Joaquin Hills Road. Also included are the two freestanding pylon signs located in the center median of the Newport Center Drive entrance into Newport Center from East Coast Highway. While all the signs were originally approved to identify Newport Center, they (except the pylon signs within the Newport Center Drive median) were modified over time to identify tenants within Newport Center and Fashion Island. The modifications were a result of Fashion Island's reputation for attracting shoppers from a larger region who were less familiar with the local road system. The additional signage and tenant identification was necessary for increased visibility to alert motorists traveling to the regional business and shopping center.
4. In 2011, the Zoning Administrator approved Modification Permit No. MD2011-018 to allow the addition of two 7-foot by 13-foot wide freestanding monument signs into the identification signage network for Fashion Island/Newport Center area. The Modification Permit was necessary because the development standards for the placement of signs within PC-17 and PC-40 only identify building and tenant signs within each PC and did not include signs identifying buildings or tenants within the Center. PC-17 and PC-40 stipulate that the Zoning Code will apply to situations not identified in the text of the development standards. The Local Coastal Program Implementation Program was not in effect at this time.
5. The height of the proposed monument signs are 10 feet, 3 inches as compared to the other existing entrance freestanding signs, which are either monument or cube-shaped and range in height from 8 feet, 6 inches to 11 feet, 6 inches, except the two existing pylon signs which are 43 feet in height within the center median of Newport Center Drive. Though the proposed signs vary in size and shape as compared to the other existing freestanding signs, they were designed to: 1) be in scale and character of their immediate surroundings; and 2) provide a similar benefit as the existing signs by identifying individual tenants within Newport Center and Fashion Island from a major entrance.
6. The proposed signs will allow the materials and construction features and lettering to remain up to date and similar to the existing pylon signs located within the median of Newport Center Drive entrance into Newport Center from East Coast Highway.

7. The proposed monument signs do not include an address plate, which is consistent with the other existing freestanding identification signs located throughout Newport Center.

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. Newport Center is a regional center for business and commerce. The commerce component of Newport Center, Fashion Island, is located behind existing office buildings and screened from view from East Coast Highway. Consequently, the location, sign area, content, height, and width of the proposed signs are necessary to provide adequate identification of key tenants within the Fashion Island area from East Coast Highway. The signage will enable motorists to identify more clearly destination points and the Newport Center Drive access to Fashion Island from East Coast Highway.
2. The replacement monument signs are a logical design for this development, including the decorative base and cap, which will be consistent with all other similar signage. In addition, the replacement signs, when viewed in collaboration with the existing pylon signs provide greater project and tenant identification to the site.

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.*

Facts in Support of Finding:

1. The proposed signs do not interfere with the intent or purpose of the Zoning Code as they provide for adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The signs attract and invite rather than demand the public's attention. Their design is complementary to the area and uses to which they relate and harmonious with their surroundings.
2. The granting of the Modification Permit is necessary to update and replace the existing modification permit to allow for deviations to the monument signs for sign height, width and area as well as the sign copy to maintain the tenant names.
3. Providing tenant names, as the existing signs and the replacement signs do, provide greater convenience to motorists offering adequate identification of key uses, which are not visible or otherwise not recognized, within Fashion Island from East Coast Highway. Additionally, tenant names on monument signs are common

throughout the City of Newport Beach and throughout regional business and commerce centers.

4. PC-17 and PC-40 regulations do not specify limitations on the height, width, or sign area of monument signs. Zoning Code regulations limit the maximum height to 8 feet (6 feet average), the maximum width 9 feet, and the maximum sign area to 75 square feet. Modification Permit No. MD2011-018 was approved to allow the monument signs to be 7 feet tall by 13 feet wide and 91 square feet in area. The proposed replacement monument signs with a decorative base and cap are 10 feet, 3 inches tall by 13 feet, 9 inches in width and a sign area of 93 square feet.
5. The increase in the height, width and sign area of the proposed monument signs is necessary in order to provide greater visibility for the entrance into Newport Center from Newport Center Drive and to allow the signs to be developed in scale with and complementary to their surroundings. The increase is less than that of the other freestanding signs located at the other perimeter entrances into Newport Center. The increased width and height of the proposed monument signs is justified due to the large 1.5 acre,  $\frac{1}{4}$ -round landscape areas surrounding the signs, which provides for a greater area of open space as compared to other open space corners within Newport Center. The increase in sign area is a direct result of the overall increased dimensions of the signs and the need for greater visibility for the entrance into Newport Center.

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. The proposed replacement monument signs are a logical design solution to identify key tenants from the outer perimeter of the Newport Center Drive entrance from East Coast Highway. The signs will be in scale with the existing development and complement the two existing pylon signs.
2. Due to the amount of retail and office space within the center as well as the location and configuration of the buildings and roadways, the monument signs of an increased height, width and sign area that identify the individual tenants will provide greater convenience and visibility for motorists to the site.
3. There are no other direct entrances into Newport Center from East Coast Highway offering adequate visibility for the proposed signs and/or other tenant identification ground signs. It is the only entrance with open space suitable for signs necessary to alert motorists that they are approaching the entrance into Newport Center.

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 replacement monument signs will be constructed on private property at the intersection of Newport Center Drive and East Coast Highway. They will neither change the density or intensity of the existing commercial use nor affect the flow of light or air to adjoining residential properties.
2. The monument signs, as conditioned, will not interfere with sight distance from any street or driveway. The City Traffic Engineer has reviewed the replacement signs for sight distance requirements. A condition is in place to require final review of plans prior to permit issuance by the City Traffic Engineer.
3. The existing freestanding identification signs located throughout Newport Center at the major entrances have not proven to be detrimental.
4. The listing of tenant on the monument signs promotes public safety by making this information more visible to motorists driving through a heavily traveled, high-speed intersection and allowing drivers to pay more attention to traffic conditions. Furthermore, the addition of tenant names to the monument sign will increase awareness of the center's businesses.

***Coastal Development Permit***

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth for the replacement sign located at 1402 Newport Center Drive:

Finding:

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

Facts in Support of Finding:

1. With the exception of the requested waiver to sign height, width, and area, the replacement signs comply with development standards applicable to monument signage including minimum lot frontage, setback requirements, landscaping and the distance between signs.
2. The project site is not abutting a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. However, there is Irvine Terrace Park which is a coastal view site, and coastal view road segments to the



north on Newport Center Drive and to the west on Coast Highway, which are all in the vicinity and analyzed further. Irvine Terrace Park is directly across East Coast Highway approximately 200 feet away and separated by an approximately 6-foot tall block wall on the park parcel. When inside the park, there is a public view towards Newport Harbor. The proposed replacement signs do not impact nor detract from these views. The nearest coastal view road is the segment of Newport Center Drive at the intersection of Civic Center Drive/Granville Drive approximately 750 feet north of the subject property. This segment curves up towards Corporate Plaza and Corporate Plaza West and the sign locations are not visible from this location, as confirmed with site analysis and windshield surveys. Another segment of coastal view road begins approximately 4,000 feet west of the project site at the intersection of East Coast Highway and Jamboree Road. The proximity between Coast Highway to the Bay expands as the road travels east, such that the segment abutting the project site is not considered a coastal view road. Newport Harbor is approximately 1,800 feet south of East Coast Highway and is obstructed by existing residential and nonresidential development.

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.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. The proposed sign is the replacement of an existing sign within an existing landscaped corner area. The sign is not in or near any coastal resource or sensitive habitat. Newport Harbor is over 1,800 feet away across East Coast Highway.

***Coastal Development Permit Modification and Variance***

In accordance with NBMC Section 21.52.090 (Relief from Implementation Plan Development Standard), the Zoning Administrator may approve a waiver to a development standard of the Implementation Plan only after making all of the following findings:

Finding:

*H. The Zoning Administrator has considered the following:*

- i. Whether or not the development is consistent with the certified Local Coastal Program to the maximum extent feasible; and*
- ii. Whether or not there are feasible alternatives that would provide greater consistency with the certified Local Coastal Program and/or that are more protective of coastal resources.*

Facts in Support of Finding:

1. An alternative to the proposed sign is to not update this sign with the new design. The intent is to provide an updated adequate identification of the site while guarding against excessive and confusing proliferation of signs. The new design allows for a decorative base and cap and to be the appropriate size given the location and conformity to all other monument signs at the entrance to Newport Center. The sign is complementary to the area and uses to which they relate and harmonious with the surroundings.
2. The proposed sign is the replacement of an existing sign within an existing landscaped corner area. The sign is not in or near any coastal resource or sensitive habitat. Newport Harbor is over 1,800 feet away across East Coast Highway.

Finding:

- I. The granting of the modification is necessary due to practical difficulties associated with the property and the strict application of the Implementation Plan results in physical hardships.*

Facts in Support of Finding:

1. Facts in Support of Finding C above are hereby incorporated by reference.

Finding:

- J. The granting of the variance is necessary due to special circumstances applicable to the property, including location, shape, size, surroundings, topography, and/or other physical features, the strict application of the development standards otherwise applicable to the property denies the property owner privileges enjoyed by other property owners in the vicinity and in the same coastal zoning district.*

Fact in Support of Finding:

1. The increase in the height of the proposed replacement monument sign is necessary in order to provide consistency with all other existing monument signs at entrances to Newport Center and to allow the signs to be developed in scale with and complementary to their surroundings. The increase in height is less than that of the other freestanding signs located at the other perimeter entrances in Newport Center.

Finding:

- K. The variance complies with the findings required to approval a coastal development permit in NBMC Section 21.52.015(F).*

Fact in Support of Finding:

1. Facts in Support of Findings F and G above are hereby incorporated by reference.

Finding:

*L. The variance or modification will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs or other scenic coastal areas.*

Fact in Support of Finding:

1. The replacement sign will be located in the same location as the existing sign, at the northwest corner of the entrance to Newport Center at Newport Center Drive and East Coast Highway. There is no public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs in the area of the proposed sign.
3. The replacement sign does not block or significantly impede public access to and along the sea or shoreline and to coastal parks, trails or coastal bluffs and scenic areas. A windshield study analysis and photo simulations were provided to support this finding. No impacts were found.
4. Fact in Support of Finding H.2 above is hereby incorporated by reference.

Finding:

*M. The variance or modification will not result in development that has an adverse effect, either individually or cumulatively, on coastal resources, including wetlands, sensitive habitat, vegetation or wildlife species.*

Fact in Support of Finding:

1. There are no coastal resources on the property nor are there any in the immediate area that could be affected by replacement of the monument sign. The proposed sign is the replacement of an existing sign within an existing landscaped corner area. The sign is not in or near any coastal resource or sensitive habitat. Newport Harbor is over 1,800 feet away across East Coast Highway.

Finding:

*N. The granting of the variance or modification will not be contrary to, or in conflict with, the purpose of this Implementation Plan, nor to the applicable policies of the Local Coastal Program.*

Fact in Support of Finding:

1. Facts in Support of Finding H. above are hereby incorporated by reference.

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 15311 under Class 11 (Accessory 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, and the exceptions under Section 15300.2 are not applicable.
2. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2019-007 and Coastal Development Permit No. CD2019-070, 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 the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Newport Beach Municipal Code Chapters 20.64 and 21.64. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City on the applications may not be appealed to the California Coastal Commission. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

**PASSED, APPROVED, AND ADOPTED THIS 12<sup>TH</sup> DAY OF MARCH, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and sign plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to permit issuance, the locations of the signs shall be reviewed and approved by Public Works to ensure the locations comply with sight distance regulations.
3. *The dimensions of the monument signs shall not exceed the size depicted on the approved plans, or 10 feet, 3 inches tall, by 13 feet, 9 inches wide. The area of the actual sign face shall be limited to a maximum of 93 square feet per face.*
4. *The subject monument signs are permitted to include tenant signage that would otherwise be precluded by the Corporate Plaza and Corporate Plaza West Planned Community regulations.*
5. *The subject monument signs are to complement the two existing 43 feet high pylon signs within the Newport Center Drive median and shall not include any of the same text, unless otherwise approved by the Community Development Director, to guard against excessive signage and to ensure the signage preserves and enhances the community's appearance.*
6. To ensure readability of the monument size, the minimum letter size allowed shall be 6 inches.
7. The proposed monument sign shall not be required to include address plate, unless otherwise required by the Fire Department or Planning Division.
8. 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.
9. 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.
10. This Modification Permit No. MD2019-007 and Coastal Development Permit No. CD2019-070 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 and 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.

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 Newport Center Monument Signs including, but not limited to, Modification Permit No. MD2019-007 and Coastal Development Permit No. CD2019-070 (PA2019-209). 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. ZA2020-025

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING LIMITED TERM PERMIT NO. XP2019-012 FOR TEMPORARY VEHICLE STORAGE LOCATED AT 101 BAYSIDE DRIVE (PA2019-255)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Newport Auto Center with respect to property located at 101 Bayside Drive and legally described as Record of Survey RS\_095\_39-43, requesting approval of a limited term permit for a period of more than 90 days.
2. The applicant proposes to store up to 300 vehicles from the Newport Auto Center (NAC) dealership in a temporary location at the Newport Dunes Resort and Marina ("Newport Dunes"). NAC porters would retrieve vehicles from the existing NAC facility (445 East Coast Highway) via Bayside Drive and drive them to the NAC property between the hours of 10:00 am and 6:00 pm. No test drives, car washing, vehicle repair, sales, or other activities would occur at the vehicle storage site. No customers would enter the subject site.
3. The subject property is located within the Newport Dunes Planned Community (PC 48) Zoning District and the General Plan Land Use Element category is Parks and Recreation (PR).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Parks and Recreation (PR) and the Coastal Zoning District is Newport Dunes Planned Community (PC 48).
5. A public hearing was held on March 12, 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. The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15304 under Class 4 (Minor Alterations to Land) 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. Class 4 consists of minor public or private alterations in the condition of land, water and/or vegetation, which do not involve removal of mature, scenic trees except for forestry and agricultural purposes.

2. The proposed land use would meet the definition of Class 4, F, which allows minor temporary use of land having negligible or no permanent effects on the environment, including carnivals, outdoor festivals, sales of Christmas trees, and similar uses. The application does not include any site improvements or the removal of mature, scenic trees. The use is the temporary parking of vehicles for an off-site land use on an existing gravel parking lot and does not involve any new construction.
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 20.52.040 (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act Guidelines under Class 4 (Minor Alterations to Land).*

#### Fact in Support of Finding:

1. Class 4 exempts minor temporary uses of land having negligible or no permanent effects on the environment, such as temporary vehicle storage.

#### Finding:

- B. *The operation of the requested 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 use would be authorized for one (1) year, for a possible extension of an additional year if authorized by the Zoning Administrator.
2. The proposed vehicle storage is a passive use, with porters transporting vehicles to and from the site approximately 5 to 10 times per day, Monday through Saturday between the hours of 10:00 a.m. and 6:00 p.m., thereby reducing any potential effects to persons residing or working in the neighborhood.



3. The subject property has been used intermittently for temporary vehicle storage since at least December of 2014, and there is no evidence that this use has been detrimental or hazardous to public convenience, health, or safety of persons residing or working in the neighborhood.
4. The temporary storage of vehicles uses a maximum of 300 parking spaces in the marina/overflow parking area, which contains 654 parking spaces leaving adequate parking for the existing marina and other uses at the Newport Dunes.
5. The proposed parking area would be separated from the residential uses to the west by distance, landscaping, and a block wall. Additionally, the area would not be accessible to the public.
6. Minimum 20-foot wide drive aisles would be maintained thereby allowing access by the Fire Department in the event of an emergency.
7. The directly adjacent uses are nonresidential in nature.

Finding:

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

Facts in Support of Finding:

1. The temporary storage of vehicles uses a maximum of 300 parking spaces in the marina/overflow parking area, which contains 654 parking spaces. The parking area is separated from the main access drive aisle and vehicular access to the other uses at the Newport Dunes will not be affected.
2. The temporary storage of vehicles in the marina/overflow parking area will not impact the 800-space beach day use parking area located east of the lagoon, which is required to provide a minimum 645 parking spaces for day use beach area users by the Newport Dunes Settlement Agreement.
3. The temporary storage of vehicles using a small portion of a parking area that is used for the marina and overflow for events will not impact public access and recreation components of the Newport Dunes. The proposed vehicle storage area is located across the main access road from the marina and consists of gravel, making the area less desirable and convenient for marina and day use beach area users.
4. No structures or property improvements are proposed or authorized other than temporary barricades required and conditioned by Public Works.

5. As conditioned, the applicant is required to maintain public access and parking in accordance with the Newport Dunes Settlement Agreement, including, but not limited to boat launch and trailer parking, wash down, beach and day use facilities, bike trail, human-powered launch, and camping.

Finding:

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

Facts in Support of Finding:

1. The subject lot maintains adequate access from Bayside Drive via a two (2)-lane access drive.
2. Traffic related to the proposed use would be minimal, consisting of approximately 5 to 10 porter trips per day.

Finding:

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

Facts in Support of Finding:

1. The temporary storage of vehicles does not generate an excess of vehicular traffic or significantly impact the parking for patrons and guests of the Newport Dunes Resort and Marina.
2. The applicant, Newport Dunes Resort and Marina, would maintain the Settlement Agreement-required parking spaces.
3. The Public Works department has reviewed the on-site circulation and parking layout and provided conditions of approval to ensure compliance with the related requirements.

Finding:

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

Facts in Support of Finding:

1. The General Plan and Zoning Code establish the policies and implementing regulations to promote public health, safety, general welfare, economic vitality of neighborhoods, as well as the orderly development of the City, and to ensure the beneficial development

of the City. The site is designated for Parks and Recreation, and although the use is not Parks and Recreation, it is temporary and does not preclude use of the remainder of the site for existing recreational uses.

2. The temporary vehicle storage within an existing parking lot will not be detrimental to surrounding uses, thereby furthering the intent of the General Plan and Zoning Code.
3. The temporary vehicle storage is conditioned such that it will comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
4. The subject lot is not located within a specific plan.

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 15304 under Class 4 (Minor Alterations to Land) 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 Limited Term Permit No. XP2019-012 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 12TH DAY OF MARCH, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. *Temporary vehicle storage shall be limited to the general area depicted on the site plan and may accommodate up to a maximum of 300 vehicles at any one time.*
2. *No test drives, car washing, vehicle repair, sales, painting, or other activities shall occur onsite.*
3. *Test driving of vehicles shall be prohibited on all residential streets and shall originate and end at the Newport Auto Center dealership (445 East Coast Highway).*
4. *Transport of vehicles from or to the project site shall be limited to the hours of 10:00 am to 6:00 pm Monday through Saturday.*
5. *All vehicles shall be stored in marked parking spaces and there shall be no vehicle stacking within drive aisles.*
6. *All vehicles stored on-site shall be operable at all times. No wrecked or inoperable vehicles shall be stored onsite.*
7. *In the event that the stored vehicles must be removed from the site on a temporary basis due to a special event at the Newport Dunes, the vehicles shall not be parked on City streets or public parking lots. If a separate private parking lot is to be used during said special event, the owner of said private parking lot or Newport Auto Center shall secure a Limited Term Permit for the temporary parking of vehicles in accordance with the Zoning Code.*
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. The applicant shall 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.
10. This Limited Term Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
11. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit or the processing of a new Limited Term Permit.

- 12. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
- 13. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. 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

- 14. 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.
- 15. *No outside paging system shall be utilized in conjunction with this establishment.*
- 16. The temporary vehicle storage location shall be maintained free of litter and graffiti at all times.
- 17. 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.
- 18. 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 Newport Auto Center Temporary Inventory Storage including, but not limited to, Limited Term Permit No. XP2019-012 (PA2019-255). 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.

### **Life Safety Division**

19. *Emergency vehicle access shall be maintained onsite at all times. The Life Safety Division's minimum drive aisle requirement is 20 feet in width. An emergency drive aisle loop shall be maintained that continues throughout the storage area. The loop shall be provided at the entrance drive and continue to an exit drive.*

### **Public Works Department**

20. *Vehicle drop off and pick up shall occur entirely on private property.*
21. *The general public, including customers, shall not be permitted to use and/or drive through the vehicle storage area. Temporary traffic barricades or other means shall be installed to block public access to the vehicle storage area.*

## RESOLUTION NO. ZA2020-026

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING CONDOMINIUM CONVERSION NO. CC2020-001, TENTATIVE PARCEL MAP NO. NP2020-001, MODIFICATION PERMIT NO. MD2020-001 AND COASTAL DEVELOPMENT PERMIT NO. CD2020-003 TO CONVERT AN EXISTING TWO (2)-UNIT DWELLING LOCATED AT 945 AND 947 WEST BALBOA BOULEVARD INTO TWO (2) CONDOMINIUMS (PA2020-004)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Belt Capital Properties, LLC (“Applicant Owner”), with respect to property located at 945 and 947 West Balboa Boulevard, requesting approval of a condominium conversion, tentative parcel map, modification permit and coastal development permit.
2. The property at 945 and 947 West Balboa Boulevard is legally described as Lot 13 and portion of Lot 14, Block 9 of Tract 234.
3. The applicant proposes a condominium conversion, tentative parcel map, modification permit and coastal development permit to convert an existing 6,046-square-foot, two (2)-unit dwelling into two (2) condominiums. The required two (2)-car parking per unit will be provided and no waivers of Title 19 (Subdivision Code) development standards are proposed with this application. The existing development complies with all other applicable development standards including height and floor area limits. Approval of the Tentative Parcel Map and Condominium Conversion Permit would allow each unit to be sold individually as condominiums.
4. 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.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two-Unit Residential) (20.0-29.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on March 12, 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.

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## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15301 and 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities) and Class 15 (Minor Land Divisions), 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. The proposed project consists of the conversion of an existing 6,046-square-foot, two (2)-unit dwelling with attached garaged and covered parking and does not involve new construction. The conversion of the two (2)-unit dwelling into condominiums will allow the units to be sold separately.
3. Class 15 exempts the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map and Condominium Conversion is for individual sale of the units and is consistent with all of the requirements of the Class 15 exemption.
4. 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.

### *Condominium Conversion*

In accordance with Section 19.64.070 (Standards for Condominium Conversions) of the Newport Beach Municipal Code, the following findings are set forth:

#### Finding:

- A. *The minimum number, and the design and location of off-street parking spaces shall be provided in conformance with the provisions of the Zoning Ordinance in effect at the time of approval of the conversion.*



Facts in Support of Finding:

1. As permitted and conditioned, each unit will provide a one (1)-car garage and a one (1)-car carport.
2. The four (4) spaces provided meet the number of spaces required (two [2] per unit) per Chapter 20.40 (Off-Street Parking) of the Zoning Ordinance.

Finding:

- B. Each dwelling unit within a building shall have a separate sewer connection to the City sewer.*

Fact in Support of Finding:

1. As permitted and conditioned, each unit will maintain separate sewer connections to the City sewer.

Finding:

- C. Each sewer lateral shall be retrofitted/fitted with a cleanout at the property line.*

Fact in Support of Finding:

1. As permitted and conditioned, each unit will maintain a separate sewer cleanout located at the property line.

Finding:

- D. Each unit shall maintain a separate water meter and water meter connection.*

Fact in Support of Finding:

1. As permitted and conditioned, each unit will maintain a separate water meter and water meter connection.

Finding:

- E. The electrical service connection shall comply with the requirements of Chapter 15.32 (Underground Utilities) of the Newport Beach Municipal Code.*

Fact in Support of Finding:

1. The existing two-unit dwelling was constructed with an electrical service connection that was, at such time, determined to be in compliance with the requirements of Chapter 15.32. No upgrades or changes are required to the existing service connections.

Finding:

- F. *The applicant for a condominium conversion shall request a special inspection from the Building Division for the purpose of identifying any building safety violations. The applicant shall correct all identified safety violations prior to approval of a final map for the condominium conversion.*

Fact in Support of Finding:

1. A special inspection was conducted on February 10, 2020, and the building inspector noted no deficiencies in existing building conditions or compliance to minimum standards for the condominium conversion.

Finding:

- G. *Permanent lot stakes and tags shall be installed at all lot corners by a licensed surveyor or civil engineer unless otherwise required by the City Engineer.*

Fact in Support of Finding:

1. As conditioned, the project will comply with this requirement prior to recordation of the final parcel map.

Finding:

- H. *For residential conversions, the project shall be consistent with the adopted goals and policies of the General Plan, particularly with regard to the balance and dispersion of housing types within the City.*

Facts in Support of Finding:

1. The project is consistent with the adopted goals and policies of the Land Use Element and other Elements of the General Plan. The project site is designated as RT (Two-Unit Residential) by the Land Use Element of the General Plan. The existing two (2)-unit dwelling is consistent with the RT land use category, which is intended to provide for a range of two (2)-unit dwelling units such as duplexes and townhomes.
2. The existing two (2)-unit dwelling will be converted into a two (2)-unit condominium. The residential density on the site will remain the same.

Finding:

- I. *The establishment, maintenance or operation of the use or building applied for shall 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.*

Facts in Support of Finding:

1. The application of the project as conditioned will ensure the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood and the City.
2. The requested application is to convert an existing two-unit dwelling into two (2) condominiums for individual sale of the units on property located within the R-2 Zoning District.
3. Public improvements will be required of the Applicant per the Municipal Code and the Subdivision Map Act.

*Tentative Parcel Map*

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code and is approved based on the following findings per [Section 19.12.070 \(Required Findings for Action on Tentative Maps\)](#) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The two (2)-unit dwelling will comply with current condominium standards. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use Designation.
2. The Tentative Parcel Map does not apply to any specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for two (2)-unit development because it is regular in shape and is relatively flat.
2. The subject property is accessible from West Balboa Boulevard and the alley at the rear and is adequately served by existing utilities.

Finding:

- L. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Fact in Support of Finding:

1. This project has been reviewed, and it has been determined that it qualifies for a Class 1 and a Class 15 categorical exemption pursuant to Title 14 of the California Code of Regulations (Sections 15301 and 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act). 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. The proposed project consists of the conversion of an existing 6,046-square-foot, two (2)-unit dwelling with attached four (4)-car garaged/covered parking and involves no new construction. The conversion of the two (2)-unit dwelling into condominiums will allow the units to be sold separately. Class 15 exempts the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The existing two (2)-unit dwelling is a permitted use and minimal physical improvements are necessary to allow the requested condominium conversion for the individual sale of the units. The site has not been subject to a prior subdivision and does not have a slope of greater than 20 percent.

Finding:

- M. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the applicant per Section 19.28.010 (General Improvement Requirements) of the Municipal Code and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- N. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to determine that the public at large has acquired easements for access through or use of property within a subdivision.*

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public easements located on the property.

Finding:

- O. *That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.*

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site is developed for residential use and lies in a Zoning District that permits residential uses.

Finding:

- P. *That, in the case of a “land project” as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.*

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a “land project” as previously defined in Section 11000.5 of the California Business and Professions Code because the Project site does not contain 50 or more parcels of land.

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

Finding:

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

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Building Code that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

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

Fact in Support of Finding:

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

Finding:

- S. *That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The two (2)-unit dwelling is designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- T. *For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is located within the Coastal Zone. A coastal development permit is requested in conjunction with the proposed tentative parcel map and condominium conversion application. The project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter Three of the Coastal Act. The Facts in Support of Findings Z and AA for the *Coastal Development Permit* (below) are hereby incorporated by reference.

*Modification Permit*

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:

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

Facts in Support of Finding:

1. The neighborhood is comprised of a mix of one (1)-, two (2)- and three (3)-story residential structures. The design, bulk, and scale of the existing development is consistent with the existing neighborhood pattern of development and expected future development.
2. The dimensions of the existing garages and carports comply with the parking space dimensions in effect at the time the existing development was constructed and comply with current development standards for lots less than 30 feet in width.
3. Nonconforming parking dimensions are common on the Balboa Peninsula where the required parking dimensions were modified in 2010 to require greater parking dimensions for lots in excess of 30 feet in width. The existing parking space dimensions will accommodate four (4) onsite parking spaces as required for a two (2)-unit residential development and are compliant with current parking stall dimensions for lots that are 30 feet wide.

Finding:

- V. 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 interior dimensions of the existing one (1)-car garages and carports were compliant with the Newport Beach Zoning Code at the time of construction in 2009. As a result of

amendments to the Zoning Code in 2010, the parking spaces are now substandard in size and considered legal nonconforming.

2. The granting of the Modification Permit is necessary to allow conversion of the existing two (2)-unit dwelling into a two (2)-unit condominium and the existing onsite parking spaces are adequate for the parking of four (4) vehicles.

Finding:

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

Facts in Support of Finding:

1. The subject property is approximately 47 feet wide and the required side setback is 4 feet, measured from each side property line. Based on the resultant 39-foot wide buildable area and the location of the existing structure on the site, it is physically infeasible to increase the size of the existing parking spaces.
2. The existing parking dimensions are compliant with the development standards in effect when the existing two (2)-unit dwelling was constructed in 2009 and no new construction is proposed in conjunction with the proposed project.

Finding:

- X. 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. Providing parking dimensions that comply with current development standards is not feasible given the buildable area of the lot and the location of existing structures on-site unless the existing structure is significantly modified or a new structure is constructed.
2. An alternative that would reconfigure the entire lower level to accommodate compliant parking dimensions would require the entire first floor living area to be reconfigured, significantly impacting the cost and scope of the project, and would not meet the objectives of the applicant.

Finding:

- Y. 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 parking configuration accommodates four (4) vehicles on-site with the same garage and carport dimensions as the existing development. The existing nonconforming garages and carports fulfill the intent of the Zoning Code by providing adequate parking on-site. The existing condition has not proven to be detrimental to the occupants of the property, nearby properties, the neighborhood, or the City.
2. Nonconforming parking dimensions are common on the Balboa Peninsula where the minimum parking dimensions were modified in 2010 to require additional size for lots in excess of 30 feet in width.
3. Approval of the requested modification does not alter or affect existing conditions because the project does not involve any new construction and complies with all other applicable development standards.

*Coastal Development Permit*

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map and Condominium Conversion is for condominium purposes and meets all of the requirements of the Local Coastal Program including [21.30.025 \(Coastal Subdivisions\)](#).
2. The existing two (2)-unit dwelling complies with applicable residential development standards including, but not limited to, floor area limitation, height, and parking.
  - a. The maximum floor area limitation is 7,235 square feet and the existing floor area of the living area and garages is 6,622 square feet.
  - b. The existing two (2)-unit dwelling conforms to the minimum required setbacks, which are 10 feet along the front property line abutting Balboa Boulevard and 4 feet along the side property lines.
  - c. The existing two (2)-unit dwelling complies with the maximum height requirement of 24 feet for flat roof structures and 29 feet for pitched rooflines.
  - d. The project includes covered parking for a total of four (4) vehicles, complying with the minimum one (1)-car garage and one (1) covered or garage parking space per dwelling unit.

3. The neighborhood is developed with a mix of one (1)-, two (2)- and three (3)-story residential structures. The design, bulk, and scale of the existing development is consistent with the existing neighborhood pattern of development and expected future development.
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.
5. The project site is located between the nearest public road and the sea or shoreline area however approval of the parcel map will not affect public recreation access or views. There are no open space areas or bikeways within the boundaries of the parcel map that would require any easements or dedication.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public roads 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.
2. Vertical access to the public beach is available approximately 35 feet west of the site along 10<sup>th</sup> Street.
3. The 10<sup>th</sup> Street access also provides access to the 12-foot-wide public boardwalk providing lateral access and views of the ocean.

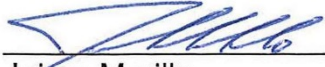
SECTION 4. DECISION.

**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 15301 and 15315 under Class 1 (Existing Facilities) and Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Condominium Conversion No. CC2020-001, Tentative Parcel Map No. NP2020-001, Modification No. MD2020-001 and Coastal Development Permit No. CD2020-003, 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 Director

of Community Development in accordance with the provisions of NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan). Final action taken by the City on the coastal development permit 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 12<sup>TH</sup> DAY OF MARCH, 2020.**



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Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

*(Project-specific conditions are in italics)*

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. 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 Condominium Conversion, Tentative Parcel Map, Modification Permit and Coastal Development Permit.

**Coastal Development Permit Conditions**

3. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
4. This Coastal Development Permit does not authorize any development seaward of the private property.
5. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. 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.
8. 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.
9. 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.

**Tentative Parcel Map/Condominium Conversion Conditions**

10. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (North American Datum of 1983). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
11. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivisions Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one [1]-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of the project.
12. All improvements shall be constructed as required by Ordinance and the Public Works Department.
13. Two-car parking, including one enclosed garage space and one covered or enclosed parking space, shall be provided on site for each dwelling unit per requirements of the Zoning Code. All parking spaces shall be maintained clear of obstructions for the parking of vehicles at all times.
14. *Abandon the existing curb cut along the West Balboa Boulevard frontage per City Standard STD-165-L. Install new curb, gutter and sidewalk per City Standard where the in the location of the abandoned driveway.*
15. *Remove the existing red curb adjacent to the abandoned driveway approach.*
16. An encroachment permit is required for all work activities within the public right-of-way.
17. This Condominium Conversion No. CC2020-001, Tentative Parcel Map No. NP2020-001, Modification Permit No. MD2020-001 and Coastal Development Permit No. CD2020-003 and shall expire unless exercised within 24 months from the date of approval as specified in [Section 21.54.060 \(Time Limits and Extensions\)](#) and [Section 20.54.060 \(Time Limits and Extensions\)](#) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
18. 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, attorneys' 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 **Belt Capital Properties, LLC Condominium Conversion** including, but not limited to, **Condominium Conversion No. CC2020-001, Tentative Parcel Map No. NP2020-001, Modification Permit No. MD2020-001 and Coastal Development Permit No. CD2020-003 (PA2020-004)**. 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. ZA2020-027

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-002 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED GARAGE LOCATED AT 619 36<sup>th</sup> STREET (PA2020-005)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by C.J. Light Associates, with respect to property located at 619 36<sup>th</sup> Street, requesting approval of a coastal development permit.
2. The property at 619 36<sup>th</sup> Street is legally described as Lot 10 in Block 636 of Tract 164.
3. The applicant requests a coastal development permit to demolish an existing single-family residence and construct a new three-story, 2,762-square-foot, single-family residence with a 442-square-foot, two-car garage. The project includes accessory structures such as walls, fences, patios, drainage devices, and landscaping. The project also includes a reinforced bulkhead and cap to address coastal hazards protection. The proposed residence complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested.
4. The subject property is bisected by the coastal permit jurisdiction boundary resulting in a portion of the property within the California Coastal Commission's permit jurisdiction. This Coastal Development Permit is intended to cover portions of the project within the City's permit authority as designated in the certified Local Coastal Program (LCP) (Title 21 of the Newport Beach Municipal Code).
5. 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.
6. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two Unit Residential) (20.0-29.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
7. A public hearing was held on March 12, 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 2,762-square-foot, single-family residence and attached 442-square-foot 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, Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

### Finding:

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

### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,360 square feet and the proposed floor area is 3,204 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line abutting 36<sup>th</sup> Street, 3 feet along each side property line and 25 feet along the front property line on the waterfront.
  - c. The highest guardrail is less than 24 feet from established grade (11.42 feet North American Vertical Datum of 1988 [NAVD 88]) 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 two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is developed with a mix of one- and two-story, single-family residences. A third level may be allowed subject to certain development standards. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. The property fronts on channel waters just west of Newport Boulevard. The project site is protected by an existing seawall with the top of the bulkhead at elevation 6.74 feet North American Vertical Datum of 1988 (NAVD 88). The existing bulkhead does not have noticeable signs of distress, however due to its age and existing height, it is required to be repaired and raised. The project proposes to reinforce the existing wall and add a cap that will bring the height to 10.6 feet (NAVD 88). No development is proposed bayward of the existing seawall.
4. A Coastal Hazards Analysis Report was prepared for the project by PMA Consulting, Inc., dated December 30, 2019. The current maximum bay water elevation is 7.7 feet (NAVD 88). According to the report, the estimated sea level rise at the site is approximately 6 feet over the next 75 years utilizing direct interpolation of the data for “high emissions 2090 and 2100” and “medium-high risk aversion”, accounting for the water level rising to 13.70 feet NAVD 88. The Newport Beach City Council has approved the use of the high estimate of the “low risk aversion” scenario, which is 3.2 feet by the year 2100, or 2.9 feet by 2094. Therefore, the sea level is estimated to likely reach 10.6 feet NAVD 88 over the next 75 years (i.e. the life of the structure). If future sea level rise is greater than the “low risk aversion” scenario by 2094 (10.6 feet NAVD 88), then the bulkhead can be raised without further encroachment towards the waterfront. Future raising of the bulkhead height would require a separate coastal development permit.
5. The finished floor elevation of the first floor of the proposed living area is 9.0 feet NAVD 88, which complies with the minimum 9.0-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.
6. 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 final building inspection, and prior to the issuance of building permits, respectively.
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 CBC prior to building permit issuance.

8. The project design includes 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.
9. The property is located adjacent to a waterway. Pursuant to NBMC [Section 21.35.030 \(Construction Pollution Prevention Plan\)](#), a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been prepared and included in the plan sets for review and approval prior to the issuance of construction permits. Construction plans and activities will be required to adhere to the approved CPPP.
10. Pursuant to NBMC [Section 21.35.050 \(Water Quality and Hydrology Plan\)](#), because the project includes less than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is not required at this time.
11. Proposed landscaping will be required to comply 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.
12. The project site is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is located at the Lido Channel Turning Basin on the other side of Newport Boulevard and is not visible from the site. The proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing single-family

residence located on an R-2 lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

2. The project is designed and sited so as not block or impede existing public access opportunities. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the water.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-002, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. The subject property is bisected by the coastal permit jurisdiction boundary resulting in a portion of the front patio accessory improvements and the bulkhead improvements within Coastal Commission's permit jurisdiction. This coastal development permit is intended to cover portions of the project within the City's permit authority under the Local Coastal Program.
4. 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 12<sup>TH</sup> DAY OF MARCH, 2020.**



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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. *Prior to issuance of building permits, the project plans shall be updated to reflect that the development is waterproofed 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.*
3. *Prior to the issuance of building permits, the applicant shall obtain a coastal development permit or other authorization for improvements to the bulkhead and for any new accessory structures located within the California Coastal Commission's permit jurisdiction, as determined by the California Coastal Commission.*
4. *Prior to issuance of building permits, the applicant shall obtain approval of improvements to the existing bulkhead or similar flood protection improvements to provide a minimum coastal hazards protection elevation of 10.6 feet (NAVD 88). All improvements shall occur landward of the existing bulkhead.*
5. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
6. 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.
7. 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.

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8. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
  9. This Coastal Development Permit does not authorize any development seaward of the private property.
  10. 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.
  11. 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.
  12. 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.
  13. 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.
  14. 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.
  15. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

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 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.
20. 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.
21. Prior to the issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
22. Prior to issuance of building permits, 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.
23. Prior to the 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.
24. 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.
25. 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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26. 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.
  27. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
  28. This Coastal Development Permit No. CD2020-002 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.
  29. 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 **Theiders Residence** including, but not limited to, Coastal Development Permit No. CD2020-002 (PA2020-005). 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. ZA2020-028

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-007 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE WITH APPURTENANT STRUCTURES LOCATED AT 1502 SOUTH BAY FRONT (PA2020-012)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, Architect (“Applicant”), with respect to property located at 1502 South Bay Front, and legally described as Lot 2, Block 1, of Section 5, Balboa Island requesting approval of a coastal development permit (CDP).
2. The Applicant proposes to demolish a single-family residence and construct a new 2,488-square-foot, single-family residence with an attached 412-square-foot, two-car garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the R-BI (Two-Unit Residential, 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. The Coastal Land Use Plan category is RT-E (Two-Unit Residential) (30.0 - 39.9 DU/AC) and the Coastal Zoning District is R-BI (Two-Unit Residential, Balboa Island).
5. The subject CDP application was deemed complete on January 13, 2020. Although the property was originally developed with a duplex in 1972, it was legally converted to a single-family residence in 1978, with the issuance of Building Permit No. 742-78. The proposed project will not result in the reduction of a housing unit on the subject property. The project is therefore not subject to the provisions of Senate Bill 330, which became effective on January 1, 2020.
6. A public hearing was held on March 12, 2020, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is categorically exempt from the California Environmental Quality Act (“CEQA”) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small



Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. Class 3 includes the construction of a single-family residence in a residential zone. The proposed project includes the demolition of an existing single-family residence and construction of a new 2,488-square-foot, single-family residence with an attached 412-square-foot, two-car garage consistent with applicable regulations.
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), 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 2,900 square feet and the proposed gross floor area is 2,900 square feet.
  - b. The proposed development will provide the required setbacks, which are 5 feet along the front property line, 3 feet along the side property lines and 5 feet along the rear property line.
  - c. The highest guardrail or flat roof is no more than 24 feet, measured from established grade at every point, as required by NBMC Section 20.30.050(B)(3) and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
  - d. The project includes enclosed garage parking for two vehicles, which complies with the minimum two-space parking requirement for single-family residences with less than 4,000 square feet of livable floor area.
2. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood's pattern of development and expected future development consistent with

applicable development standards as the neighborhood is developed with a mix of one-, two- and three-story residential structures.

3. The property is a bayfront lot that is 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 Analysis was prepared for the project by PMA Consulting, Inc., dated December 25, 2019. The report concludes that, with the implementation of sea level rise (SLR) adaptation strategies (water proofing and future raising of the City's bulkhead), the proposed development will not be adversely impacted by potential coastal hazards over the next minimum 75 years. The PMA report further concludes that with the implementation of the cited recommendations, no additional protective devices will be necessary to protect the development from any existing or anticipated future coastal hazards for the next 75 years or more.
4. 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.
5. The finished floor elevation of the first habitable floor of the proposed structure is 9.00 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 development will be required to be waterproofed to 10.6 feet NAVD88 to accommodate future anticipated potential sea level rise.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
7. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
8. The project design addresses water quality with a construction erosion control plan that outlines temporary best management practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff

derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.

9. 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 preliminary Water Quality and Hydrology Plan (WQHP) or Water Quality Management Plan (WQMP) is required. The preliminary WQHP report dated January 20, 2020, was prepared by Ali Rezaei, licensed professional engineer with RCE Consultants, Inc. The report includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a Low Impact Development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. The final WQMP will be reviewed with construction plans prior to building permit issuance.
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 project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program (LCP) 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 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 to the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities. The proposed residential development neither provides nor inhibits public coastal access. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project includes the replacement of an existing single-family residence with a new single-family residence. The project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.

2. 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. The applicant shall obtain Public Works Department review and approval for improvements encroaching into the public right-of-way area. Such improvements are allowed by City Council Policy L-6. As stated in Condition of Approval No. 6 below, temporary construction fencing will not displace public access to the boardwalk or public sidewalks.

#### 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. CD2020-007, 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 12<sup>th</sup> DAY OF MARCH, 2020.**



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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. 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 based on the North American Vertical Datum of 1988 (NAVD88). Flood shields (sand bags and other barriers) can be deployed across the openings to protect prevent flooding to the structure.
3. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
4. 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.
5. 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.
6. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way, or any development bayward of the private property with exception of the allowable encroachments authorized by City Council Policy L-6. Existing public access shall be maintained throughout construction and with implementation of the proposed project.
7. 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.
8. 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.
  9. 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.
  10. 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.
  11. 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.
  12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
  14. 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.

- 
15. 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.
  16. 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.
  17. 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.
  18. 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.
  19. 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.
  20. 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.
  21. 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.
  22. 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.
  23. 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.
  24. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.

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25. This Coastal Development Permit No. CD2020-007 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.
  26. The Applicant shall obtain Public Works review and approval of any private improvements proposed within the public right-of-way area. Such improvements shall comply with City Council Policy L-6 related to allowable encroachments within public rights-of-way. Temporary construction fencing during construction shall not be located within the abutting public access walkway or public sidewalks.
  27. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Vincent Residence including, but not limited to, Coastal Development Permit No. CD2020-007 (PA2020-012). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.





## COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

(949) 644-3200

[www.newportbeachca.gov](http://www.newportbeachca.gov)

### **ZONING ADMINISTRATOR ACTION LETTER**

**Application No.** Chihuahua Live Entertainment (PA2020-017)  
• Limited Term Permit No. XP2020-001

**Applicant** Chihuahua Brewing Company, LLC

**Site Address** 3107 Newport Boulevard

**Legal Description** Parcel 1 of Parcel Map No. 2009-135, as per map filed in Book 371, Pages 4 through 6 of Parcel Maps, in the office of the County Recorder in the County of Orange, California

On **March 12, 2020**, the Zoning Administrator approved a limited term permit (less than 90 days) to allow live entertainment for an existing eating and drinking establishment (restaurant) for a maximum of 60 days. The restaurant is proposing to have live acoustic music that is limited to the interior of the restaurant. The proposed live music would have a maximum of two performers at any given time and would only occur between 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays. No stage is proposed and no dancing is permitted.

A previous limited term permit was approved by the Zoning Administrator on August 1, 2019, which authorized a 60-day trial period. During this trial, a noise study (Attachment No. ZA 2) was performed which concluded that live entertainment did not cause significant noise impacts to the surrounding neighborhood. The proposed limited term permit allows an additional trial period for the restaurant to evaluate the feasibility and effects of live entertainment. The restaurant has submitted an application to the City for an amendment to its existing use permit to allow for live entertainment as part of the regular operation. The property is located in the CN (Commercial Neighborhood) Zoning District. The approval is based on the following findings and subject to the following conditions:

#### **FINDINGS**

##### Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 4 (Minor Alterations to Land).*

##### Fact in Support of Finding:

1. Class 4 exempts minor temporary uses of land having negligible or no permanent effects on the environment. The proposed live entertainment will operate on a temporary basis and no improvements are proposed.

Finding:

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

Facts in Support of Finding:

1. The existing restaurant is located within a commercial center with a variety of food and retail uses. The commercial center is surrounded by residential uses to the north, south, and east, and mixed-use to the west. No late hours for live entertainment are proposed, as performances are limited to the hours of 7:00 p.m. to 9:00 p.m. on Tuesdays and Saturdays. As conditioned, the limited term permit shall be for a maximum duration of 60 days.
2. The limited term permit will allow for live acoustic music in the interior of the existing restaurant. Performances shall not occur outside of the restaurant, including the outdoor patio, so that noise will be confined indoors and the use will not be a detriment to the surrounding neighborhood.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. The proposed live music entertainment is proposed within an existing restaurant and with implementation of the conditions of approval, will not be a detriment to other tenants within the commercial center or nearby residential and mixed-use properties.
2. The lot is bound by Balboa Boulevard to the west, Newport Boulevard to the east, 32<sup>nd</sup> Street to the north, and 30<sup>th</sup> Street to the south. The adjacent right-of-way (30<sup>th</sup> Street) separates the lot from nearby residential properties within the R-2 (Two-Unit Residential) Zoning District. Live performances shall be restricted to be inside of the restaurant and thereby, will not impact the surrounding properties.

Finding:

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

Fact in Support of Finding:

1. The subject lot has four direct driveway approaches taken from Newport Boulevard, 32<sup>nd</sup> Street, Balboa Boulevard, and 30<sup>th</sup> Street. The live music entertainment is limited to the interior of the restaurant and from the hours of 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays and is not expected to create an impact on traffic.

Finding:

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

Fact in Support of Finding:

1. The proposed live music entertainment is a limited, ancillary use in an existing restaurant which will enhance the dining experience of patrons in the restaurant. The limited use is not expected to generate additional vehicular traffic and parking demand to the plaza.

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use designation for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is located in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed use is ancillary to the existing restaurant, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is not located within a specific plan area.

**CONDITIONS**

*(Project-specific conditions are in italics)*

1. The development shall be in substantial conformance with the approved floor plan except as noted in the following conditions.
2. Anything not specifically approved by this Limited Term Permit is prohibited and must be addressed by a separate and subsequent review.
3. The 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 Limited Term Permit.
5. *The Limited Term Permit is for live music entertainment in an existing restaurant for 60 days after the permit becomes effective.*
6. *Live entertainment shall be limited to hours between 7:00 p.m. and 9:00 p.m. on Tuesdays and Saturdays.*
7. *All performances shall be acoustic only and shall not be amplified in any form. There shall be no DJ present at any time.*
8. *Live entertainment shall be limited to the interior of the restaurant only. No performances shall occur outside of the restaurant, including the outdoor dining area.*
9. *There shall be no more than two performers at any given time.*
10. *There shall be no dancing.*
11. *There shall be no stage constructed. Performances shall not block exits or exit paths of travel.*
12. *Restaurant shall not exceed maximum occupancy load of 57 persons inside and 18 persons on patio.*
13. *All doors and windows shall be closed during performances.*
14. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise level 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. No outside paging system shall be utilized in conjunction with this establishment.
16. Should the live entertainment become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
17. 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 **Chihuahua Live Entertainment** including, but not limited to, **Limited Term Permit No. XP2020-001 (PA2020-017)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development, 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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



David S. Lee  
Associate Planner

Approved by:



Jaime Murillo  
Zoning Administrator

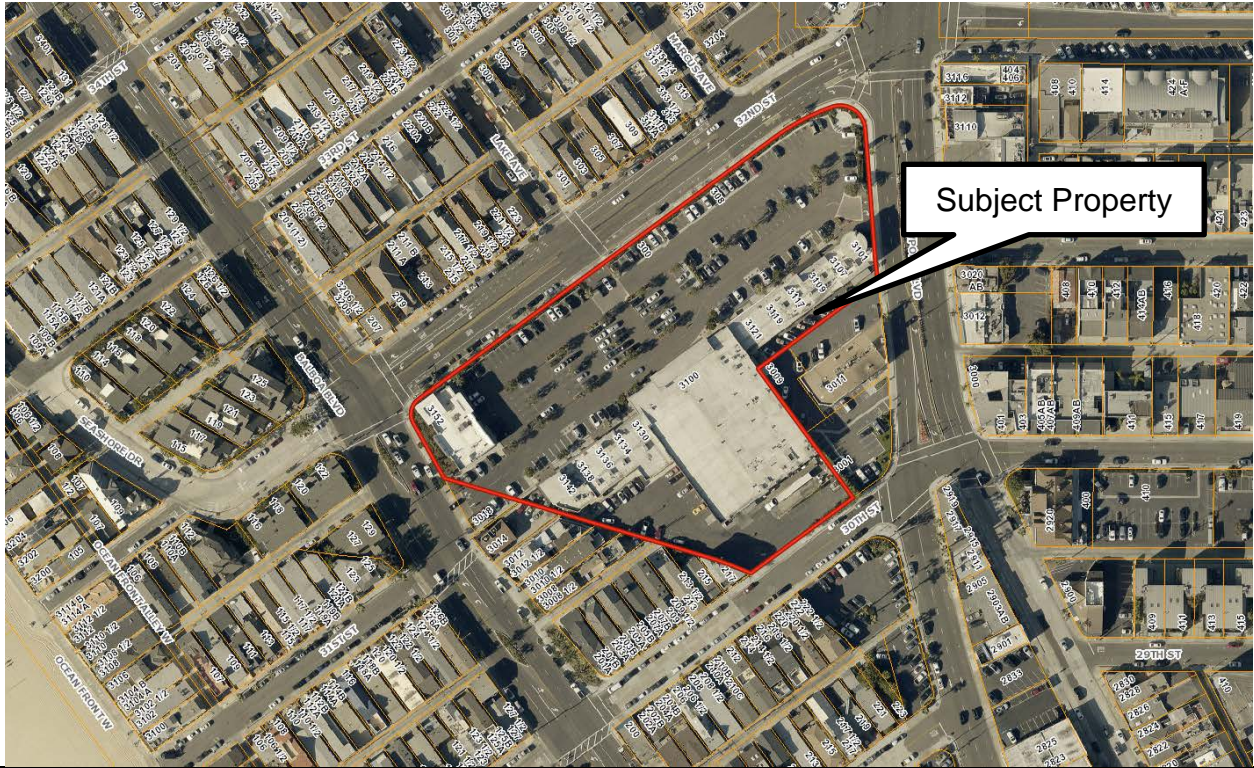
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Attachments:   ZA 1 Vicinity Map  
                  ZA 2 Noise Analysis  
                  ZA 3 Floor Plans

# **Attachment No. ZA 1**

Vicinity Map

# VICINITY MAP



Limited Term Permit No. XP2020-001  
(PA2020-017)

**3107 Newport Boulevard**

# **Attachment No. ZA 2**

Noise Analysis



September 27, 2019

THE LANDING

C/o Ms. Kaitlin Crowley, Mobilitie  
3107 Newport Boulevard  
Newport Beach, CA 92663

**Subject: Chihuahua Tap House Live Music Supplemental Noise Analysis, City  
of Newport Beach**

Dear Ms. Crowley:

### **Introduction**

RK ENGINEERING GROUP, INC. (RK) is pleased to provide this noise analysis for live music at the Chihuahua Tap House. The property is located at 3107 Newport Boulevard, in the City of Newport Beach. The Chihuahua Tap House restaurant is currently operational and is located within the existing Landing Shopping Center.

The Chihuahua Tap House, pursuant to a limited term (60-day) permit (XP2019-005/PA2019-095), hosted live music two (2) days a week. The limited term permit's effective date was August 15, 2019. The Chihuahua Tap House is currently applying for a new Conditional Use Permit (CUP) to, among other modifications, expand the square footage of the restaurant and to allow live music on the premises.

The purpose of this study is to monitor and report noise levels from the current live music that was performed at the project site, and determine whether the continued operation of live music would cause noise impacts to adjacent noise sensitive land uses, if authorized by the City pursuant to the requested CUP.

This report is intended to serve as a supplement to the *Chihuahua Tap House Limited Term Permit Application Noise Impact Study, May 21, 2019, RK*.

## Noise Analysis Methodology

Live music at the Chihuahua Tap House was monitored by RK on the following two (2) days:

- Tuesday, September 3, 2019
- Saturday, September 7, 2019

Live music was provided between the hours of 7 p.m. and 9 p.m. per the limited term permit, and for each of the identified evenings, RK conducted three (3) short-term noise level measurements at the project site and one (1) 24-Hour noise measurement at the nearest adjacent residential properties, located along 32<sup>nd</sup> Street. Noise level measurements capture both the ambient noise levels without the live music and the noise levels with live music.

- **Short-term** noise level measurements were conducted for 10-minute intervals adjacent to the Chihuahua Tap House restaurant. The noise meter was placed approximately 5 feet above ground level and 10 feet from the building façade, adjacent to the parking lot. Short term noise levels are representative of the noise levels outside of the Chihuahua Tap House prior to and during live music events.
- **24-Hour** noise level measurements were conducted over a 24 hour period adjacent to the residential homes along 32<sup>nd</sup> Street, across the street from the project site (approximately 220 feet away). The noise meter was placed at approximately 10 feet above ground level and 5 feet from the residential property line (in a sidewalk tree).

RK used a Piccolo-II Type 2 integrating-averaging sound level meter for all noise measurements. Sound level measurements were conducted in accordance with the City of Newport Beach technical noise specifications. All measurement equipment meets American National Standards Institute (ANSI) specifications for sound level meters (S1.4-1983 identified in Chapter 19.68.020.AA). The Leq, Lmin, Lmax, L2, L8, L25, and L50 statistical data were recorded over the measurement time period intervals and the information was utilized to define the noise characteristics for the project.

Exhibit A provides a location map of the project site and surrounding land uses.

Appendix A includes photos, field notes, and measured noise data for each live music event.

## **Live Music - September 3, 2019**

The following details and observations are provided for the live music performed at the Chihuahua Tap House on Tuesday, September 3, 2019.

The Chihuahua Tap House held a “Taco Tuesday” event with food and drink specials and a live performance of mariachi music. The mariachi performers consisted of two (2) people singing and playing acoustic guitars. The mariachi performers played inside the restaurant, and the doors between the patio dining area and interior seating area were kept closed, except to allow patrons to enter and exit.

The mariachi performers started playing music at 7:00 PM and finished by 9:00 PM. The noise measurements shown in Table 2 reflect noise levels while the band played inside the restaurant.

Prior to the live music beginning, RK conducted one (1) short-term noise measurement immediately outside of the restaurant along the sidewalk facing the parking lot. Table 1 shows the noise levels (dBA) for existing ambient conditions prior to the start of the live music.

**Table 1**  
**Short-Term Noise Measurement Results – (9/3/19)**  
**Without Live Music<sup>1</sup>**

<b>Event</b>	<b>Start Time</b>	<b>Leq</b>	<b>Lmin</b>	<b>Lmax</b>	<b>L<sub>2</sub></b>	<b>L<sub>8</sub></b>	<b>L<sub>25</sub></b>	<b>L<sub>50</sub></b>
ST-1	6:06 PM	67.6	59.2	83.2	73.3	70.5	67.8	65.8

<sup>1</sup> Noise measurements conducted for 10-minute intervals. All noise levels shown are in A-weighted decibel scale dB(A).

ST-1: Ambient noise includes noise from the parking lot, conversational noise from restaurant patrons on the patio, patio restaurant speakers, people talking along the sidewalk, and traffic noise from Newport Boulevard.

Once the live music event began, RK conducted two (2) more short-term noise measurements in the same location as ST-1. Table 2 shows the noise levels (dBA) during the live music event.

**Table 2**  
**Short-Term Noise Measurement Results – (9/3/19)**  
**With Live Music<sup>1</sup>**

Event	Start Time	Leq	Lmin	Lmax	L <sub>2</sub>	L <sub>8</sub>	L <sub>25</sub>	L <sub>50</sub>
ST-2	7:20 PM	66.0	59.1	74.4	70.3	68.3	66.8	65.3
ST-3	7:30 PM	67.3	58.7	80.7	73.2	70.2	67.6	65.8

<sup>1</sup> Noise measurements conducted for 10-minute intervals. All noise levels shown in A-weighted decibel scale dB(A).

ST-2: Noise levels include noise from the restaurant live music, restaurant speakers playing background music, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.

ST-3: Noise levels include noise from the restaurant live music, patio speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard.

Table 3 shows the 24-hour community noise exposure levels near the residential properties along 32nd Street on September 3, 2019, one of the days live music was performed.

**Table 3**  
**24-Hour Noise Measurement Results – (9/3/19)**

Time	Noise Level (Leq) <sup>1</sup>	Time	Noise Level (Leq) <sup>1</sup>
12:00 AM	67.6	12:00 PM	66.7
1:00 AM	66.1	1:00 PM	66.9
2:00 AM	62.9	2:00 PM	68.6
3:00 AM	61.9	3:00 PM	66.4
4:00 AM	66.2	4:00 PM	68.4
5:00 AM	69.6	5:00 PM	71.2
6:00 AM	74.0	6:00 PM	65.6
7:00 AM	67.1	7:00 PM <sup>2</sup>	69.9
8:00 AM	67.2	8:00 PM <sup>2</sup>	68.7
9:00 AM	71.3	9:00 PM	67.9
10:00 AM	67.7	10:00 PM	72.2
11:00 AM	66.1	11:00 PM	71.7
<b>24-Hour CNEL = 68.9</b>			

<sup>1</sup> All noise levels shown in A-weighted decibel scale - dB(A).

<sup>2</sup> Live music occurred from 7 PM to 9 PM.

## **Live Music - September 7, 2019**

The following details and observations are provided for the live music at the Chihuahua Tap House on Saturday, September 7, 2019.

The live music event on Saturday, September 7, 2019 consisted of a reggae band with three band members. The band consisted of a keyboardist, bass guitarist and acoustical guitarist. All music was performed indoors.

The reggae band started playing music at approximately 7.00 PM and was by 9:00 PM.

Prior to the live music beginning, RK conducted one (1) short-term noise measurement immediately outside of the restaurant along the sidewalk facing the parking lot. Table 4 shows the noise levels (dBA) for existing ambient conditions prior to the start of the live music.

**Table 4**  
**Short-Term Noise Measurement Results – (9/7/19)**  
**Without Live Music<sup>1</sup>**

<b>Event</b>	<b>Start Time</b>	<b>Leq</b>	<b>Lmin</b>	<b>Lmax</b>	<b>L<sub>2</sub></b>	<b>L<sub>8</sub></b>	<b>L<sub>25</sub></b>	<b>L<sub>50</sub></b>
ST-1	6:48 PM	64.8	56.9	76.5	71	68.0	65.2	63.3

<sup>1</sup> Noise measurements conducted for 10-minute intervals. All noise levels shown are in A-weighted decibel scale dB(A).

ST-1: Ambient noise includes noise from the parking lot, conversational noise from restaurant patrons on the patio, patio restaurant speakers, people talking along the sidewalk, and traffic noise from Newport Boulevard.

Once the live music began, RK conducted two (2) more short-term noise measurements in the same location as ST-1.

Table 5 shows the noise levels (dBA) during the live music performance on September 7th.

**Table 5**  
**Short-Term Noise Measurement Results – (9/7/19)**  
**With Live Music<sup>1</sup>**

Event	Start Time	Leq	Lmin	Lmax	L <sub>2</sub>	L <sub>8</sub>	L <sub>25</sub>	L <sub>50</sub>
ST-2	7:07 PM	64.6	55.7	76.9	72.5	68.0	64.4	62.5
ST-3	7:17 PM	66.2	56.0	83.0	71.4	68.7	66.4	64.8

<sup>1</sup> Noise measurements conducted for 10-minute intervals. All noise levels shown in A-weighted decibel scale dB(A).

ST-2: Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.

ST-3: Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.

Table 6 shows the 24-hour community noise exposure levels near the residential properties along 32nd Street on September 7, 2019, one of the days live music was performed

**Table 6**  
**24-Hour Noise Measurement Results – (9/7/19)**

Time	Noise Level (Leq) <sup>1</sup>	Time	Noise Level (Leq) <sup>1</sup>
12:00 AM	71.0	12:00 PM	64.4
1:00 AM	69.3	1:00 PM	69.4
2:00 AM	71.6	2:00 PM	62.5
3:00 AM	64.8	3:00 PM	62.6
4:00 AM	62.2	4:00 PM	62.7
5:00 AM	65.6	5:00 PM	62.6
6:00 AM	69.0	6:00 PM	68.7
7:00 AM	61.6	7:00 PM <sup>2</sup>	68.9
8:00 AM	62.0	8:00 PM <sup>2</sup>	70.6
9:00 AM	61.7	9:00 PM	68.2
10:00 AM	63.0	10:00 PM	73.8
11:00 AM	61.4	11:00 PM	71.2
<b>24-Hour CNEL = 67.9</b>			

<sup>1</sup> All noise levels shown in A-weighted decibel scale - dB(A).

<sup>2</sup> Live music event occurred from 7 PM to 9 PM.

## **Findings and Recommendations**

Based on RK's field observations and noise level monitoring results, the live music events at the Chihuahua Tap House on Tuesday, September 3, 2019 and Saturday, September 7, 2019 did not result in significant changes to the ambient noise environment at the project site or surrounding residential areas.

Ambient exterior noise levels near the first row of residential houses, fronting 32<sup>nd</sup> Street, currently exceed the City's allowable exterior noise level standards for single or multiple-family housing, as established in the Newport Beach Municipal Code, Chapter 10.26 -- Community Noise Control. The Newport Beach residential daytime noise standard is 55 dBA and the nighttime noise standard is 50 dBA.

As shown in Tables 3 and 6, the hourly noise levels during both daytime (7 AM to 10 PM) and nighttime (10 PM to 7 AM) consistently exceed 65+ decibels during times when no live music was being played.

Based on our field observations, the live music was not perceptible at the residential homes, and the noise monitoring results confirm that no significant changes to the ambient environment occurred as a result of the live music.

The following recommendations are provided to help reduce any potential noise impacts or complaints during live music events at the Chihuahua Tap House:

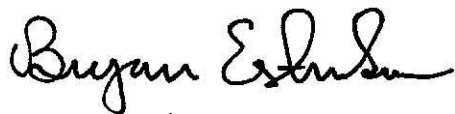
1. No live music should be played on the outdoor patio.
2. All doors and windows should remain closed (i.e., not left open for extended periods of time) while live music is playing.

## **Conclusions**

Based on the results of this analysis, live music at the Chihuahua Tap House did not cause significant noise impacts to any adjacent residential property during live music events. The live music did not cause perceptible changes in the ambient noise environment and did cause a noise violation as defined under the City of Newport Beach Community Noise Control ordinance.

RK is pleased to assist the CITY OF NEWPORT BEACH and MOBILITIE on this noise assessment. If you have any questions regarding this study, please do not hesitate to contact us at (949) 474-0809 or [be@rkengineer.com](mailto:be@rkengineer.com).

Sincerely,  
RK ENGINEERING GROUP, INC.



Bryan Estrada, AICP  
Senior Associate



Darshan Shivaiah  
Environmental Specialist

Attachments



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## Attachments

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# Exhibit A Noise Monitoring Locations



## Legend:

-  = Short Term (10-min) Noise Monitoring Location
-  = Long Term (24-Hr) Noise Monitoring Location
-  = Nearest Noise Sensitive Residential Uses



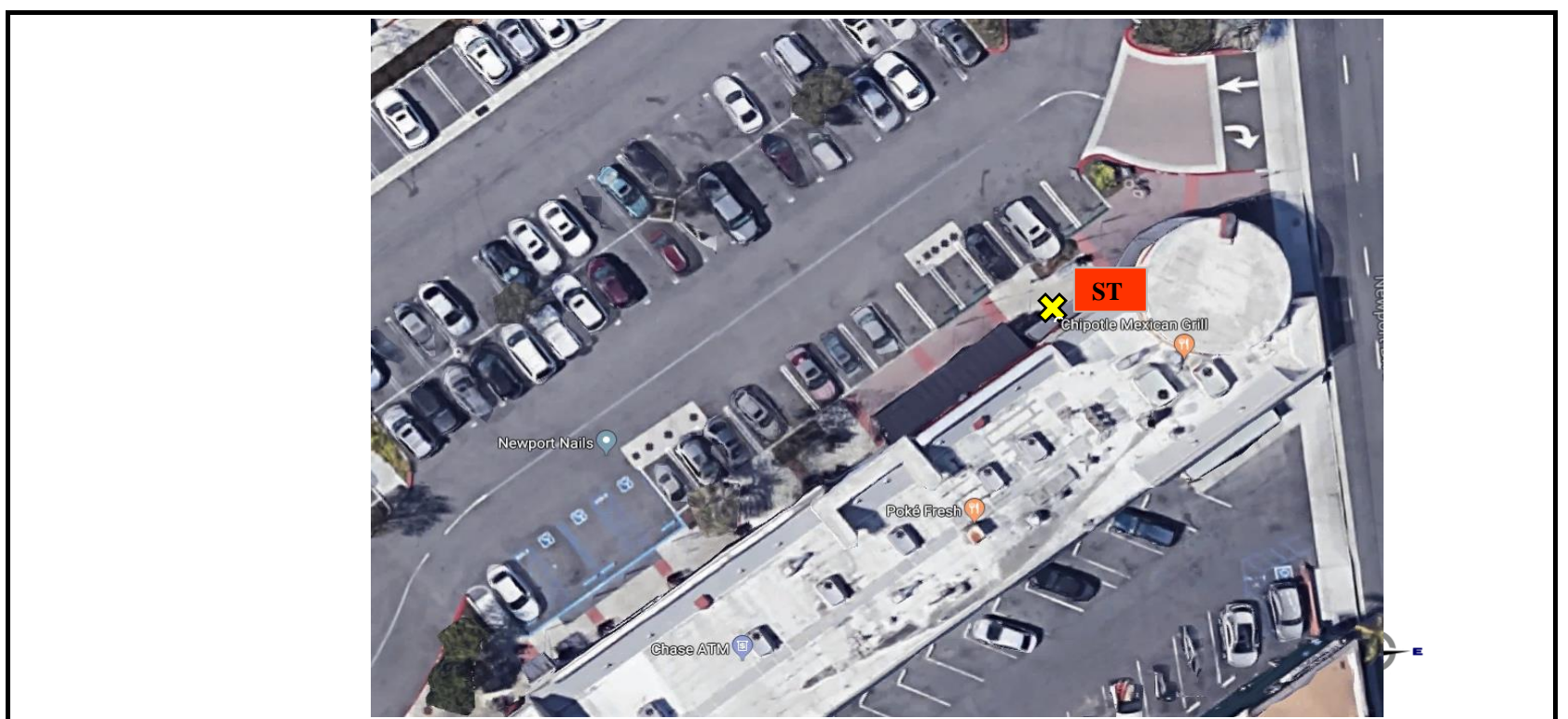
## **Appendix A**

Field Data and Photos

## Field Sheet

<b>Project:</b> Chihuahua Tap House Noise Impact Study		<b>Engineer:</b> D. Shivaiah		<b>Date:</b> 9/3/2019	
				<b>JN:</b> 2830-2019-02	
<b>Measurement Address:</b> 3107 Newport Boulevard			<b>City:</b> Newport Beach		<b>Site No.:</b> 1
<b>Sound Level Meter:</b> LD-712 Serial # A0520		<b>Calibration Record:</b>			<b>Notes:</b> Temp: 57 Windspeed: 1 MPH Direction: ENE Skies: Clear Camera: Photo Nos.
		Input, dB/ Reading, dB/ Offset, dB/ Time			
		Before _____ After _____			
<b>Calibrator:</b> LD-250 250 Serial # 1322		Before 94.0 94.0 0.0 6:00 PM After 94.0 94.0 0.0			
<b>Meter Settings:</b>					
<input checked="" type="checkbox"/> A-WTD <input type="checkbox"/> LINEAR <input checked="" type="checkbox"/> SLOW <input type="checkbox"/> 1/1 OCT <input checked="" type="checkbox"/> INTERVALS <u>10</u> - MINUTE <input type="checkbox"/> C-WTD <input type="checkbox"/> IMPULSE <input type="checkbox"/> FAST <input type="checkbox"/> 1/3 OCT <input checked="" type="checkbox"/> L <sub>N</sub> PERCENTILE VALUES					

<b>Notes:</b>										Measurement Type: Long-term _____ Short-term <u>X</u>		
		Start Time	Stop Time	Leq	Lmin	Lmax	L2	L8	L25	L50		
Locations	1	6:06 PM	6:16 PM	67.6	59.2	83.2	73.3	70.5	67.8	65.8	Ambient noise includes noise from the parking lot, conversational noise from restaurant patrons on the patio, patio restaurant speakers, people talking along the sidewalk, and traffic noise from Newport Boulevard.	
	2	7:20 PM	7:30 PM	66.0	59.1	74.4	70.3	68.3	66.8	65.3	Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.	
	3	7:30 PM	7:40 PM	67.3	58.7	80.7	73.2	70.2	67.6	65.8	Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard.	
	4											



### Field Sheet - ST1 Location Photos

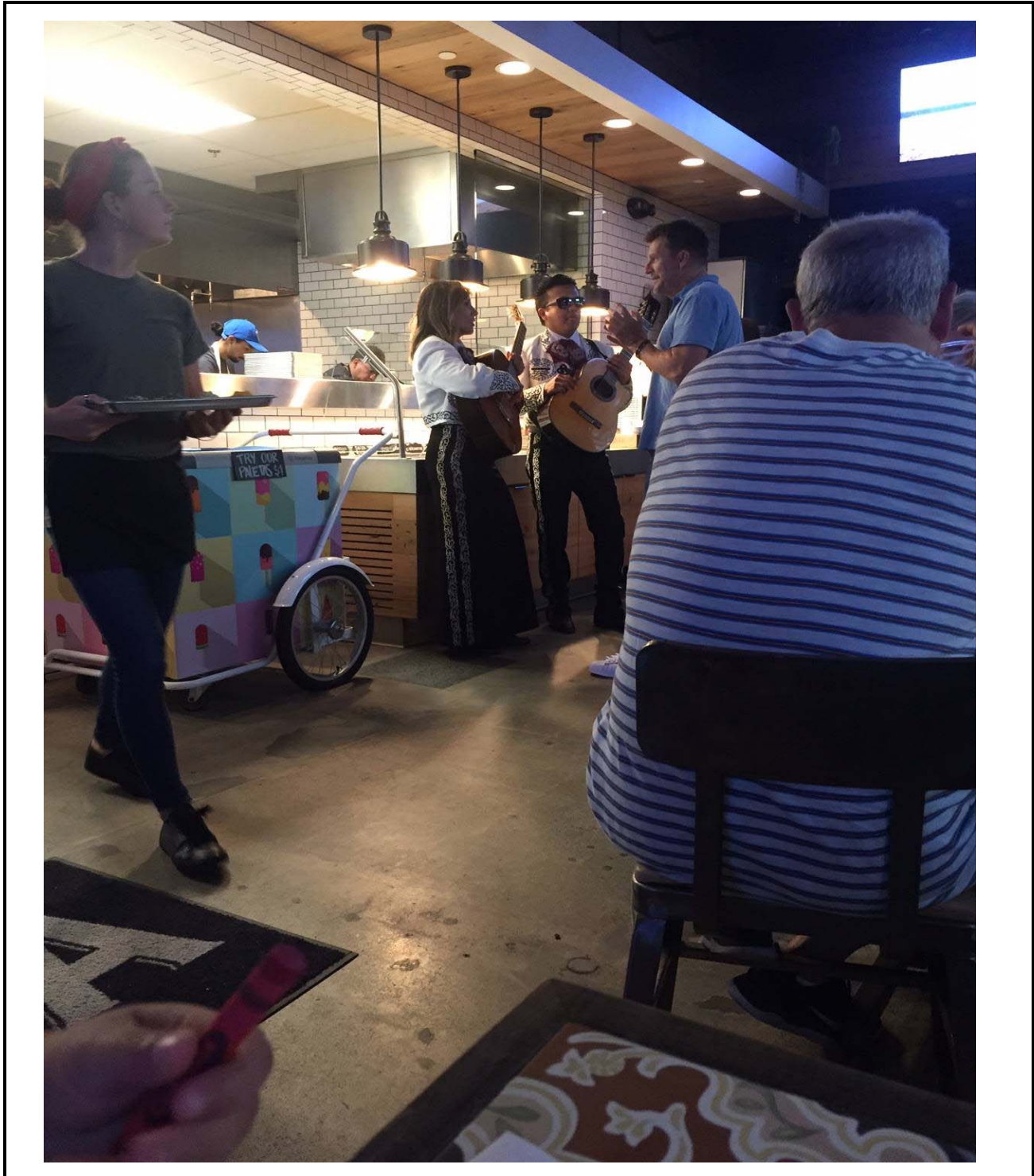
<b>Project:</b> Chihuahua Tap House Noise Impact Study	<b>Engineer:</b> D. Shivaiah	<b>Date:</b> 9/3/2019
<b>Measurement Address:</b> 3107 Newport Boulevard	<b>City:</b> Newport Beach	<b>JN:</b> 2830-2019-02
		<b>Site No.:</b> 1

6:00 PM



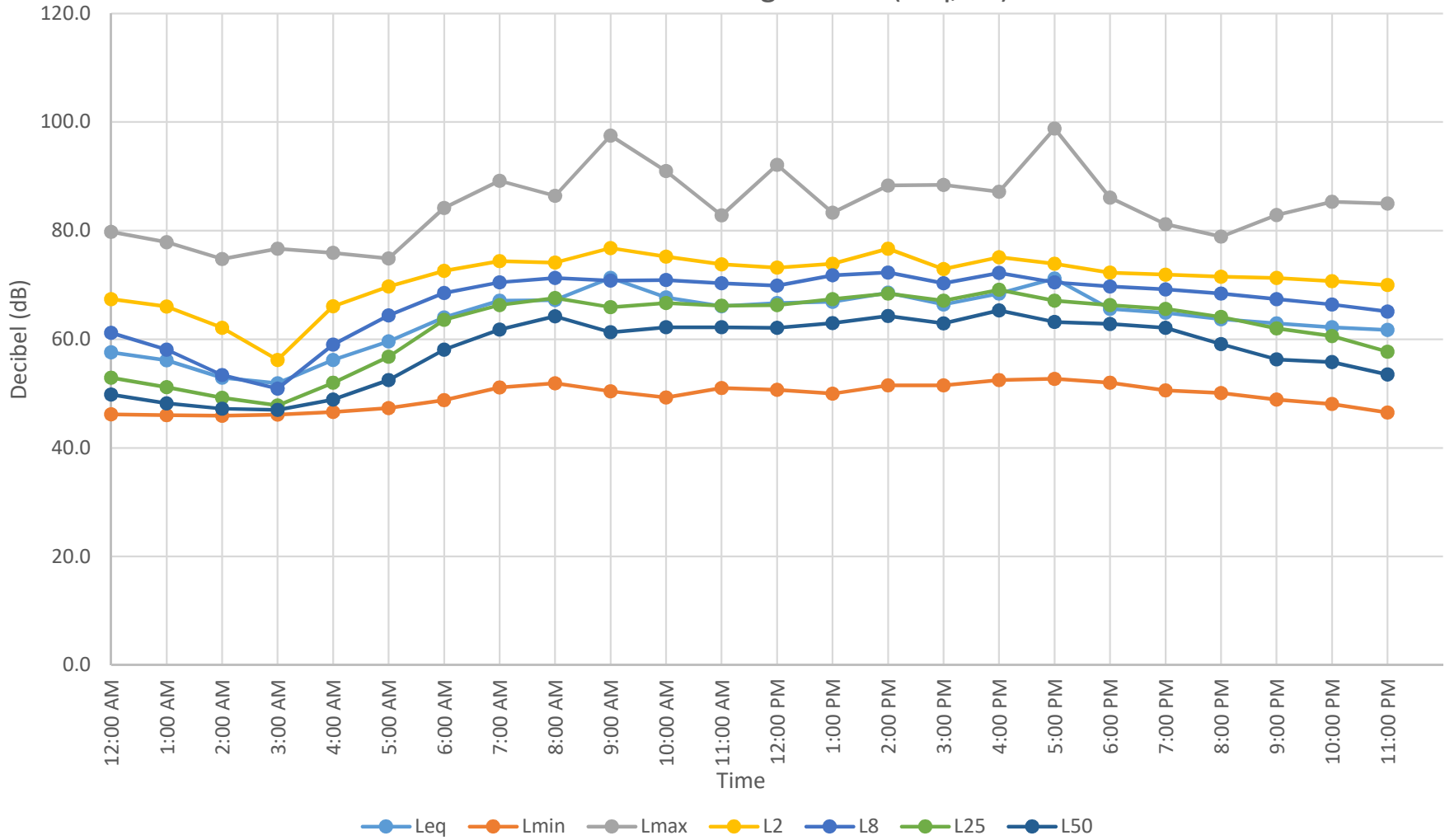
### Field Sheet - ST1 Location Photos

<b>Project:</b> Chihuahua Tap House Noise Impact Study	<b>Engineer:</b> D. Shivaiah	<b>Date:</b> 9/3/2019
<b>Measurement Address:</b> 3107 Newport Boulevard	<b>City:</b> Newport Beach	<b>JN:</b> 2830-2019-02
		<b>Site No.:</b> 1



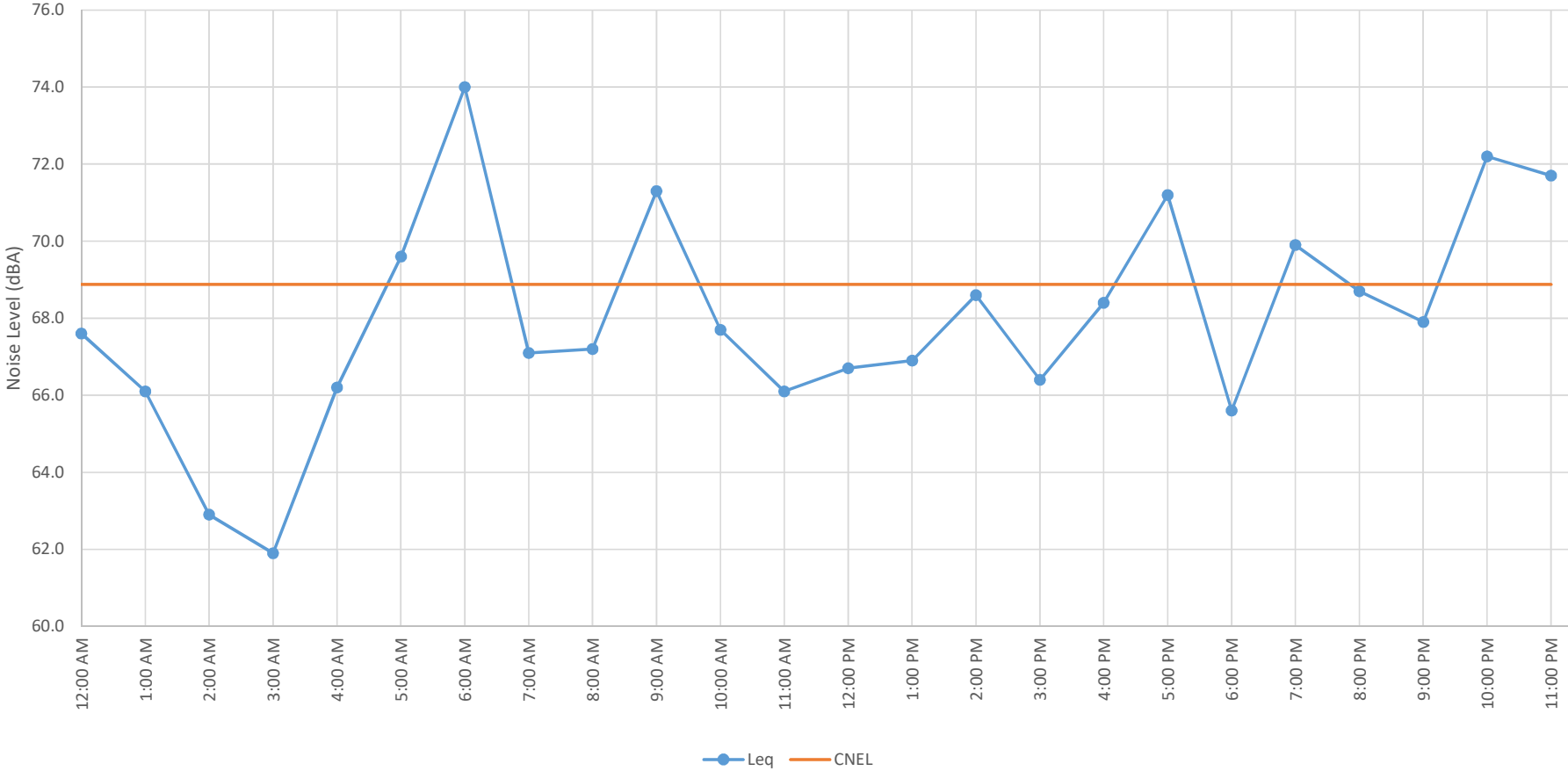
PROJECT:	Chihuahua Noise Impact Study					JOB #:	2830-2019-02
NOISE METER	Piccolo II SLM, 24-Hour Measurement					DATE:	03-Sep-19
LOCATION:	RESIDENTIAL PROPERTY LINE TO THE NORTH (DAY-1)					BY:	D. Shivaiah
Time	Leq	Lmin	Lmax	L2	L8	L25	L50
12:00 AM	57.6	46.2	79.8	67.4	61.2	52.9	49.8
1:00 AM	56.1	46	77.9	66	58.1	51.2	48.2
2:00 AM	52.9	45.9	74.8	62.1	53.4	49.2	47.2
3:00 AM	51.9	46.1	76.7	56.2	50.9	47.8	47
4:00 AM	56.2	46.6	75.9	66.1	59	52	48.9
5:00 AM	59.6	47.3	74.9	69.7	64.4	56.8	52.5
6:00 AM	64	48.8	84.2	72.6	68.5	63.6	58.1
7:00 AM	67.1	51.1	89.2	74.4	70.5	66.3	61.8
8:00 AM	67.2	51.9	86.4	74.1	71.3	67.6	64.2
9:00 AM	71.3	50.4	97.5	76.8	70.8	65.9	61.3
10:00 AM	67.7	49.3	91	75.2	70.9	66.7	62.2
11:00 AM	66.1	51	82.8	73.8	70.3	66.2	62.2
12:00 PM	66.7	50.7	92.1	73.2	69.9	66.3	62.1
1:00 PM	66.9	50	83.3	73.9	71.8	67.4	63
2:00 PM	68.6	51.5	88.3	76.7	72.3	68.4	64.3
3:00 PM	66.4	51.5	88.4	72.9	70.3	67.1	62.9
4:00 PM	68.4	52.5	87.2	75.1	72.2	69.1	65.3
5:00 PM	71.2	52.7	98.8	73.9	70.5	67.1	63.2
6:00 PM	65.6	52	86.1	72.3	69.7	66.3	62.8
7:00 PM	64.9	50.6	81.2	71.9	69.2	65.6	62.1
8:00 PM	63.7	50.1	78.9	71.5	68.4	64.1	59.1
9:00 PM	62.9	48.9	82.9	71.3	67.4	62	56.3
10:00 PM	62.2	48.1	85.3	70.7	66.4	60.6	55.8
11:00 PM	61.7	46.5	85	70	65.1	57.7	53.5
Daytime	67.4	48.1	98.8	74.0	70.4	66.5	62.4
Nighttime	59.2	45.9	85.0	68.2	63.1	57.0	52.4

### 24 Hour Noise Monitoring Results (Leq, Ln)





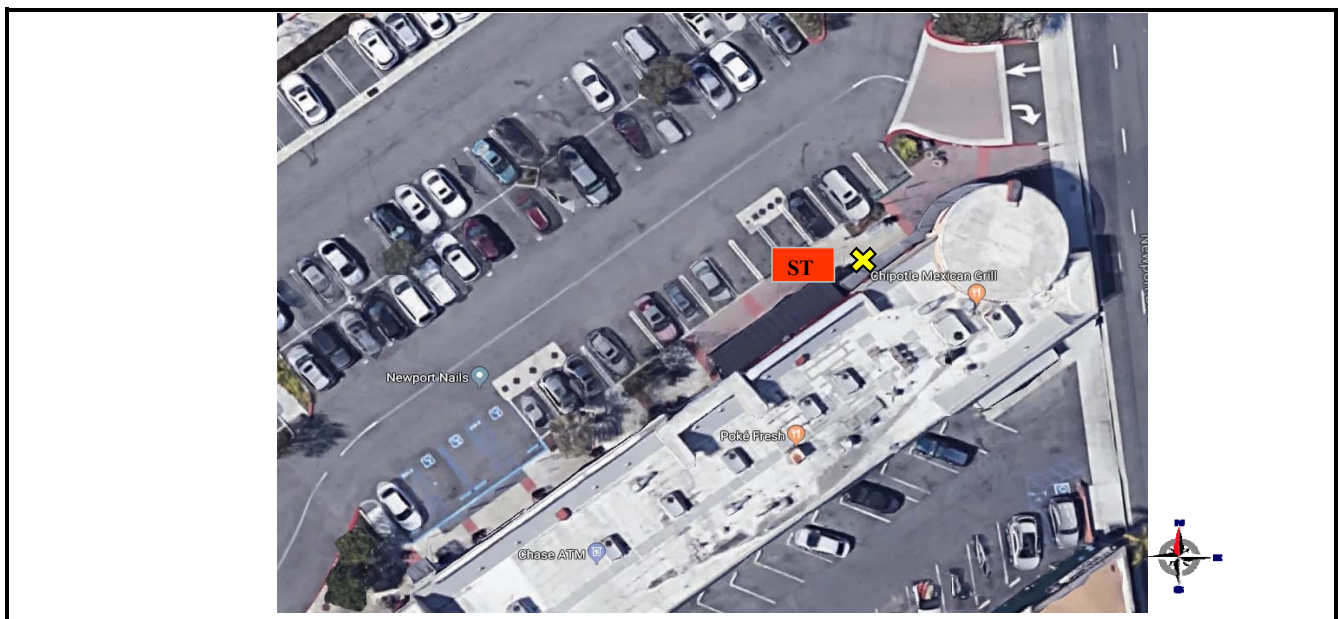
24-Hour Noise Monitoring Result (CNEL)



## Field Sheet

<b>Project:</b> Chihuahua Tap House Noise Impact Study		<b>Engineer:</b> D. Shivaiah		<b>Date:</b> 9/7/2019																					
<b>Measurement Address:</b> 3107 Newport Boulevard		<b>City:</b> Newport Beach		<b>JN:</b> 2830-2019-02																					
<b>Sound Level Meter:</b> LD-712 Serial # A0520		<b>Calibration Record:</b>		<b>Notes:</b>																					
<b>Calibrator:</b> LD-250 250 Serial # 1322		<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Input, dB/</th> <th>Reading, dB/</th> <th>Offset, dB/</th> <th>Time</th> </tr> </thead> <tbody> <tr> <td>Before</td> <td></td> <td></td> <td></td> </tr> <tr> <td>After</td> <td></td> <td></td> <td></td> </tr> <tr> <td>Before</td> <td>94.0</td> <td>94.0</td> <td>0.0 7:30 AM</td> </tr> <tr> <td>After</td> <td>/</td> <td>/</td> <td>/</td> </tr> </tbody> </table>		Input, dB/	Reading, dB/	Offset, dB/	Time	Before				After				Before	94.0	94.0	0.0 7:30 AM	After	/	/	/	Temp: 84 Windspeed: 5 MPH Direction: SWE Skies: Clear Camera: Photo Nos.	
Input, dB/	Reading, dB/	Offset, dB/	Time																						
Before																									
After																									
Before	94.0	94.0	0.0 7:30 AM																						
After	/	/	/																						
<b>Meter Settings:</b>																									
<input checked="" type="checkbox"/> A-WTD <input type="checkbox"/> LINEAR <input checked="" type="checkbox"/> SLOW <input type="checkbox"/> 1/1 OCT <input checked="" type="checkbox"/> INTERVALS <u>10</u> - MINUTE <input type="checkbox"/> C-WTD <input type="checkbox"/> IMPULSE <input type="checkbox"/> FAST <input type="checkbox"/> 1/3 OCT <input checked="" type="checkbox"/> L <sub>N</sub> PERCENTILE VALUES																									

<b>Notes:</b>										Measurement Type: Long-term _____ Short-term <u>X</u>	
	Start Time	Stop Time	Leq	Lmin	Lmax	L2	L8	L25	L50		
Locations	1	6:48 PM	6:58 PM	64.8	56.9	76.5	71	68.0	65.2	63.3	Ambient noise includes noise from the parking lot, conversational noise from restaurant patrons on the patio, patio restaurant speakers, people talking along the sidewalk, and traffic noise from Newport Boulevard.
	2	7:07 PM	7:17 PM	64.6	55.7	76.9	72.5	68.0	64.4	62.5	Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.
	3	7:17 PM	7:27 PM	66.2	56.0	83.0	71.4	68.7	66.4	64.8	Noise levels include noise from the restaurant live music, restaurant speakers, people talking along the sidewalk and noise from patrons from the patio and traffic noise from Newport Boulevard. All music played indoors.



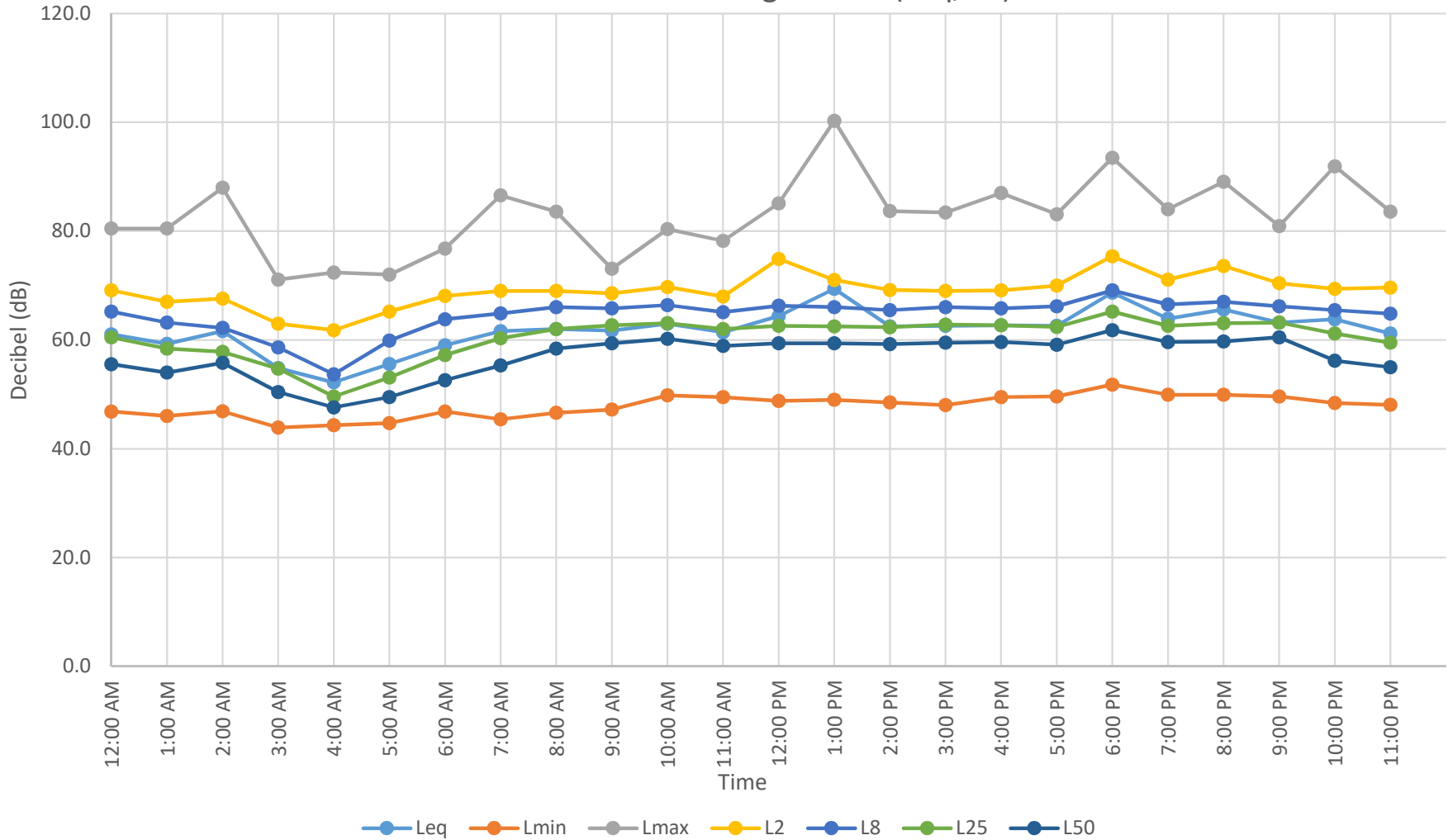
### Field Sheet - ST1 Location Photos

<b>Project:</b> Chihuahua Tap House Noise Impact Study	<b>Engineer:</b> D. Shivaiah	<b>Date:</b> 9/7/2019
<b>Measurement Address:</b> 3107 Newport Boulevard	<b>City:</b> Newport Beach	<b>JN:</b> 2830-2019-02
		<b>Site No.:</b> 1

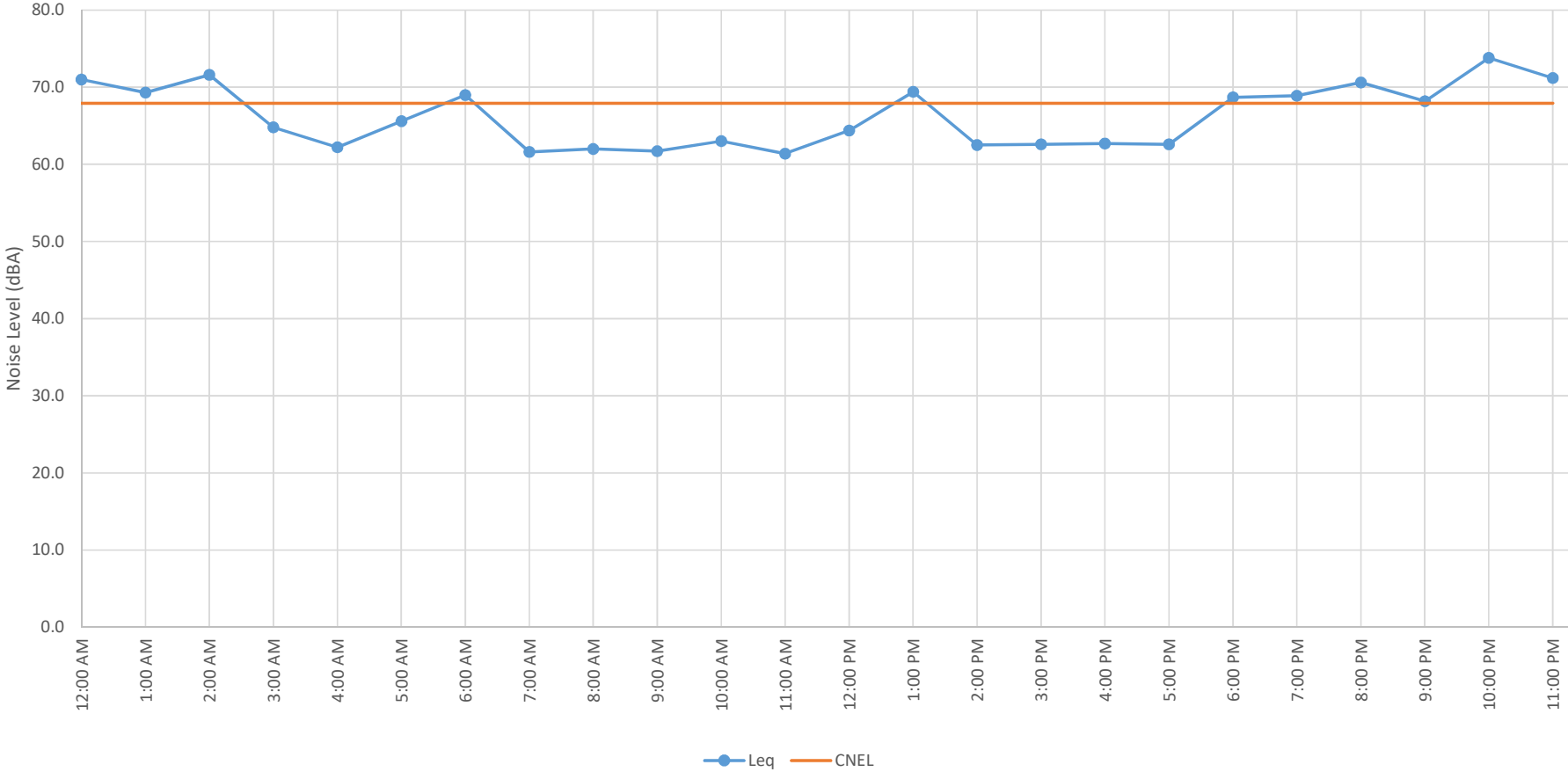


PROJECT:	Chihuahua Noise Impact Study					JOB #:	2830-2019-02	
NOISE METER	Piccolo II SLM, 24-Hour Measurement					DATE:	07-Sep-19	
LOCATION:	RESIDENTIAL PROPERTY LINE TO THE NORTH (DAY-2)					BY:	D. Shivaiah	
Time	Leq	Lmin	Lmax	L2	L8	L25	L50	
12:00 AM	61.0	46.8	80.5	69.1	65.2	60.5	55.5	
1:00 AM	59.3	46	80.5	67	63.2	58.4	54	
2:00 AM	61.6	46.9	88	67.6	62.2	57.8	55.8	
3:00 AM	54.8	43.9	71.1	63	58.6	54.7	50.4	
4:00 AM	52.2	44.3	72.4	61.8	53.7	49.6	47.6	
5:00 AM	55.6	44.7	72	65.2	59.9	53.1	49.5	
6:00 AM	59	46.8	76.8	68.1	63.8	57.2	52.6	
7:00 AM	61.6	45.4	86.6	69	64.9	60.3	55.3	
8:00 AM	62	46.6	83.6	69	66	62	58.4	
9:00 AM	61.7	47.2	73.1	68.6	65.8	62.7	59.4	
10:00 AM	63	49.8	80.4	69.7	66.4	63.1	60.2	
11:00 AM	61.4	49.5	78.2	68	65.1	62	58.9	
12:00 PM	64.4	48.8	85.1	74.9	66.3	62.6	59.4	
1:00 PM	69.4	49	100.3	71	66	62.5	59.4	
2:00 PM	62.5	48.5	83.7	69.2	65.5	62.3	59.2	
3:00 PM	62.6	48	83.4	69	66	62.8	59.5	
4:00 PM	62.7	49.5	87	69.1	65.8	62.7	59.6	
5:00 PM	62.6	49.6	83.1	70	66.2	62.4	59.1	
6:00 PM	68.7	51.8	93.5	75.4	69.1	65.2	61.8	
7:00 PM	63.9	49.9	84	71.1	66.5	62.6	59.6	
8:00 PM	65.6	49.9	89.1	73.6	67	63.1	59.7	
9:00 PM	63.2	49.6	80.9	70.4	66.2	63.2	60.5	
10:00 PM	63.8	48.4	91.9	69.4	65.5	61.2	56.2	
11:00 PM	61.2	48.1	83.6	69.6	64.8	59.5	55	
Daytime	64.5	45.4	100.3	71.1	66.3	62.7	59.4	
Nighttime	59.1	43.9	88.0	67.1	62.6	57.4	53.4	

### 24 Hour Noise Monitoring Results (Leq, Ln)

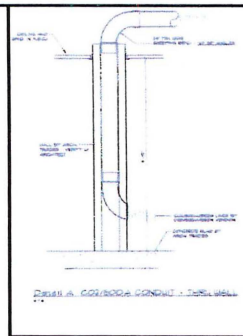


24-Hour Noise Monitoring Result (CNEL)

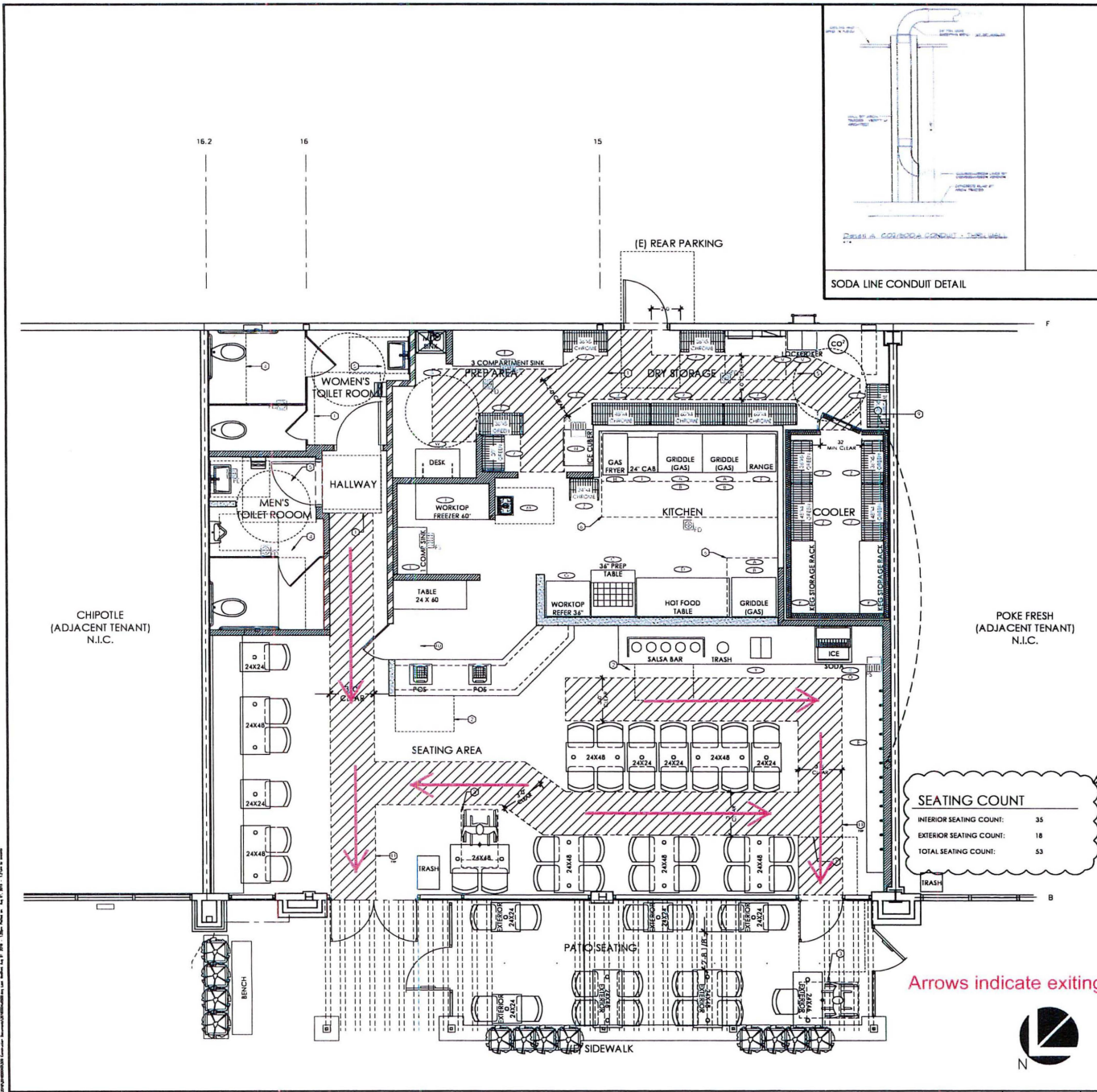


# **Attachment No. ZA 3**

Floor Plans



NO SCALE D



TAG	DESCRIPTION	MANUFACTURER & MODEL NO.
⊖	GAS COUNTERTOP GRIDDLE	JADE RANGE JG1-2436 (3)
⊖	WORKTOP COOK STAND REFRIGERATOR	BEVERAGE AIR MODEL NO. WIRC536-1 (3)
⊖	MEGA TOP PREP - REFRIGERATOR	BEVERAGE AIR MODEL NO. 3PED34HC-15M-2
⊖	HOT FOOD TABLE	SERVEWELL 38005 5-WELL HOT FOOD TABLE
⊖	POUR MY BEER WALL TAP DISPENSING	
⊖	RANGE	IMPERIAL IR-4-XB
⊖	WORKTOP REFRIGERATOR	BEVERAGE AIR MODEL NO. WIF34AHC
⊖	GAS FRYER	PIICO 65C-GAS FRYER
⊖	24" WORKTABLE CABINET	CHEFS' TOYS MODEL NO. 1900-SS-C31M
⊖	72" STAINLESS STEEL WORK TABLE	BEVERAGE AIR MODEL WIF60AHC
⊖	KEG STORAGE RACK	JOHN BOOS MODEL NO. ALER-2040-X
⊖	COMPARTMENT SINK	GSW USA MODEL NO. SE18181L
⊖	HAND SINK	KROWNE METAL MODEL NO. HS-26L
⊖	ICE CUBER	MANITOWOC MODEL NO. IT-0504A (8-570 ICE BIN)
⊖	SODA DISPENSER ICE MACHINE	MANITOWOC MODEL IT0500N
⊖	NOT USED	
⊖	NOT USED	
⊖	NOT USED	
⊖	MOP SINK	JOHN BOOS MODEL NO. EMS-2018-12-X
⊖	(3) COMPARTMENT SINK	GSW USA MODEL NO. SH18243D
⊖	NOT USED	
⊖	LOCKER	GSW USA MODEL NO. ELS-40R
⊖	DESK	1" MDF DESKTOP WITH PLASTIC LAMINATE FINISH
⊖	SODA DISPENSER	CORNELIUS DP-200/250
⊖	HORCHATA/ AGUA FRESCA	TBD
⊖	STORAGE RACKING	CROYVN BRANDS, LLC MODEL NO. VARIES

EQUIPMENT LIST NO SCALE B

- ⊖ ADA ACCESSIBLE DOOR APPROACH SHOWN DASHED
- ⊖ ADA ACCESSIBLE COUNTER APPROACH SHOWN DASHED
- ⊖ ADA ACCESSIBLE SEATING AREA
- ⊖ CLEAR FLOOR SPACE DASHED
- ⊖ 40" MIN. TURNING CIRCLE
- ⊖ EXHAUST HOOD ABOVE
- ⊖ NOT USED
- ⊖ SODA LINES OVERHEAD FROM BOH TO DROP DOWN THROUGH WALL G.C. TO PROVIDE CONDUIT SUFFICIENT FOR LINES.
- ⊖ BAG N. BOX SODA SYSTEM
- ⊖ TRENCH FLOOR FOR (E) ELECTRICAL & DATA LINES AND CONDUIT. SEE ELECTRICAL DRAWINGS.
- ⊖ 36" ACCESSIBLE PATH

3/8" = 1'-0" E FIXTURE PLAN KEYNOTES NO SCALE A

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

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PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROFESSIONAL SEAL

PROJECT: CHIQUAHUA BREWING COMPANY

ADDRESS: NEWPORT BEACH CALIFORNIA

3107 NEWPORT BLVD  
NEWPORT BEACH, CA 92660

CLIENT: CHIQUAHUA BREWING



PROJECT NUMBER: 2019004-1

SHEET FILE:

FIXTURE PLAN

SHEET NUMBER: A05.00

FIXTURE PLAN