



## 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 October 16, 2020.

---

### ZONING ADMINISTRATOR ACTIONS OCTOBER 15, 2020

- Item 1: Shea Homes Sales Office Limited Term Permit No. XP2020-005 (PA2020-202)  
Site Address: 1244 Irvine Avenue  
Action: Approved by Resolution No. ZA2020-064 Council District 3
- Item 2: Kalili Residential Condominiums Tentative Parcel Map No. NP2020-011 (PA2020-228)  
Site Address: 426 and 426 ½ Marguerite Avenue  
Action: Approved by Resolution No. ZA2020-065 Council District 6
- Item 3: Ardmore Properties Series, LLC Duplex Lot Merger No. LM2020-001 and Coastal Development Permit No. CD2020-053 (PA2020-111)  
Site Address: 130 and 132 South Bay Front  
Action: Approved by Resolution No. ZA2020-066 Council District 5
- Item 4: Cabin 3, LLC Residence Coastal Development Permit No. CD2020-117 (PA2020-183)  
Site Address: 113 Grand Canal  
Action: Approved by Resolution No. ZA2020-067 Council District 5
- Item 5: Collins Residence Coastal Development Permit No. CD2020-130 (PA2020-215)  
Site Address: 413 and 413 ½ Edgewater Place  
Action: Approved by Resolution No. ZA2020-068 Council District 1
- Item 6: Annual Review of Hoag Memorial Hospital Presbyterian Development Agreement No. 5 (PA2009-064)  
Site Address: 1 Hoag Drive  
Action: The Zoning Administrator found that Hoag Memorial Hospital Presbyterian is in good faith compliance with the terms of the Development Agreement. Council District 2

Item 7: Annual Review of Uptown Newport Development Agreement No. DA2012-003  
(PA2014-039)

Site Address: 4311-4321 Jamboree Road

Action: The Zoning Administrator found that Uptown Newport, LP is in good faith compliance with the terms of the Development Agreement.	Council District	3
---	------------------	---

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. ZA2020-064

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING LIMITED TERM PERMIT NO. XP2020-005 FOR A LIMITED-DURATION MODEL HOMES SALES OFFICE LOCATED AT 1244 IRVINE AVENUE (PA2020-202)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Shea Homes Limited Partnership (Applicant), with respect to property located at 1244 Irvine Avenue, legally described as a portion of Block 53, Irvine's Subdivision, requesting approval of a limited term permit.
2. The Applicant requests a 12-month duration limited term permit that will allow the operation of a temporary model homes sales office and a temporary parking lot to serve the office. The sales office will operate from within the converted garage space of two (2) model home units. Once sales have concluded, the office will be converted back into garages for the model units and the parking lot will be regraded into a private alleyway.
3. The subject property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM-6000) Zoning District.
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 online on October 15, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. 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 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 consists of construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. This project involves the temporary conversion of garage space within a model home to an 807-square-foot office space and the grading of the adjacent private alleyway into a parking lot.

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(G) (Limited Term Permits – Findings and Decision) of the NBMC, the following findings and facts in support of such findings are set forth:

#### Finding:

- A. *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 Limited Term Permit will allow for the temporary operation of a sales office for a new residential community for a duration of up to 12 months. The 807-square-foot office will be located within the garage parking areas of two (2) model home units that are a part of the new residential condominium development known as “The Cay at Mariner Shores.” The office will operate from 11 a.m. to 6 p.m. and will have an onsite parking lot for employees and visitors.
2. The project site is zoned RM-6000 (Multiple Residential), which is intended to provide for areas appropriate for multi-unit residential developments containing attached or detached dwelling units. The sales office and parking lot are temporary and accessory to the residential development, which is consistent with the intended purpose of the zoning district.

#### Finding:

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

#### Facts in Support of Finding:

1. The subject parcel is 5.76 acres, only slightly irregular in shape, and is fairly flat.
2. The site is currently being developed with a 92-unit residential condominium project. The sales office will be located within the converted garage space of Unit 61 and Unit 62.

3. Units 61 and 62 are located toward the center of The Cay development. Traffic to and from the office is not anticipated to interfere with the various uses adjacent to the site.

Finding:

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

Facts in Support of Finding:

1. The project site is bounded by Irvine Avenue, Mariners Drive, Rutland Road, and the Westcliff Shopping Center. Vehicular access to the site will be provided from either Irvine Avenue or Rutland Road. Internal circulation is provided by private roads. An accessory office use is not anticipated to generate excessive traffic to an already urbanized area.
2. The Public Works Department ensures adequate circulation through the plan check process. The proposed layout has been reviewed for compliance with City Standards STD—L-A and STD—L-B.

Finding:

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

Facts in Support of Finding:

1. Parking for the sales office will be provided by a temporary parking lot. The proposed parking lot has seven (7) spaces. Additional surplus parking will be available as parallel parking stalls on the immediately adjacent private road Cresta Drive.
2. For an office use, Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC requires one (1) parking space per every 250 square feet of net floor area. The sales office is 807-square-feet in area and would normally require four (4) parking spaces. The temporary parking lot is adequate to serve the office use without causing increased parking demand in the surrounding residential and commercial zoning districts.

Finding:

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

Facts in Support of Finding:

1. The subject property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM-6000) Zoning District. Temporary Uses are allowed within the RM-6000 Zoning District with approval of a limited term permit.
2. The site is not located within a specific plan area.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act 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. The exceptions to this exemption are not applicable.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2020-005, 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 15<sup>TH</sup> DAY OF OCTOBER 2020.**



---

Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans, building elevations, and signage plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Limited Term Permit.
4. This Limited Term Permit may be modified or revoked by 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.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require subsequent review and approval by the Planning Division and may require an amendment to this Limited Term Permit or the processing of a new Limited Term Permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
8. *This Limited Term Permit shall expire twelve (12) months from the issued date of the Temporary Certificate of Occupancy by the Building Division, unless an extension of up to one (1) additional period of twelve (12) months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions). A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.*
9. *Upon either the completion of sales activities or the expiration of this limited term permit, the temporary sales office improvements shall be removed and the space shall be returned to the originally intended condition of garages.*

10. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7 a.m. and 10 p.m.		Between the hours of 10 p.m. and 7 a.m.	
	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

11. 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.
12. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
13. No outside paging system shall be utilized in conjunction with this establishment.
14. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
15. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Limited Term Permit.
16. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
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 Shea Homes Sales Office including, but not limited to, Limited Term Permit No. XP2020-005 (PA2020-202). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

### **Building Division**

19. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
20. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The project Applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.

### **Public Works Department**

21. The parking layout shall comply with City Standard STD—L-A and STD—L-B.

## RESOLUTION NO. ZA2020-065

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2020-011 FOR TWO (2)- UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 426 AND 426 ½ MARGUERITE AVENUE (PA2020-228)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by CRF Engineering (Applicant), with respect to property located at 426 and 426 ½ Marguerite Avenue, and legally described as Lot 20, Block 439 of the Corona del Mar Tract, requesting approval of a tentative parcel map.
2. The applicant requests a tentative parcel map for two (2)-unit residential condominium purposes. No waivers of development standards are requested. An existing duplex was demolished, and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is designated as RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held online on October 15, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. 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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the

parcel does not have an average slope greater than 20 percent. Therefore, the proposed parcel map is eligible for the Class 15 exemption.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

#### Facts in Support of Finding:

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

#### Finding:

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

#### Facts in Support of Finding:

1. The lot is physically suitable for a duplex because it is relatively flat and a rectangular shape. It was also previously developed with a duplex.
2. The subject property is accessible from both Marguerite Avenue and the alley in the rear.
3. The site is adequately served by existing utilities, as the site was previously developed with a residential duplex that is being replaced.

Finding:

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

Facts in Support of Finding:

1. The property is located within an existing residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines. Section 2 of this Resolution is hereby incorporated by reference.

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The residential building under construction has been designed to have wastewater discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

1. The subject property is not located within the coastal zone.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby 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. 2020-011, subject to the conditions set forth in Exhibit "A," which is attached here to and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the NBMC.

**PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF OCTOBER 2020.**



---

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. The building permit for the new construction shall not receive final inspection until after recordation of the parcel map.
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 Tentative 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 Title 19 Subdivisions of the Newport Beach Municipal Code.
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 Kalili Residential Condominiums including, but not limited to Tentative Parcel Map No. NP2020-011 (PA2020-228). 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 Department**

7. A Parcel Map shall be recorded. The map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to recordation of the map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach, a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions



---

Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**

8. Prior to recordation of the Parcel Map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual Subarticle 18. Monuments (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.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. All damaged sidewalk panels, curb, gutter, and street along the Marguerite Avenue property frontage and any damaged concrete alley panels along the alley property frontage shall be reconstructed as determined by the Public Works Department.
11. All existing overhead utilities shall be undergrounded.
12. No above ground improvements will be permitted within the 5-foot rear alley setback. Smooth transitions between neighboring properties shall be provided.
13. Install new sod or low groundcovers of the type approved by the City throughout the Marguerite Avenue parkway fronting the development site.
14. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
15. An encroachment permit shall be required for all work activities within the public right-of-way.
16. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
17. In case of damage done to public improvements surrounding the development site by private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.

## RESOLUTION NO. ZA2020-066

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LOT MERGER NO. LM2020-001 AND COASTAL DEVELOPMENT PERMIT NO. CD2020-053 TO DEMOLISH TWO (2) EXISTING SINGLE-FAMILY RESIDENCES, MERGE TWO (2) CONTIGUOUS LOTS UNDER COMMON OWNERSHIP TO CREATE A SINGLE PARCEL, AND CONSTRUCT A NEW THREE (3)-STORY DUPLEX AND ATTACHED FOUR (4)-CAR GARAGE LOCATED AT 130 AND 132 SOUTH BAY FRONT (PA2020-111)**

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 (Applicant), with respect to property located at 130 and 132 South Bay Front, requesting approval of a lot merger and a coastal development permit.
2. The lot at 130 South Bay Front is legally described as Lot 8 in Block 1 of the Resubdivision of Section One of Balboa Island. The lot at 132 South Bay Front is legally described as Lot 9 and a Portion of Lot 10 in Block 1 of the Resubdivision of Section One of Balboa Island.
3. The project will allow the demolition of two (2) single family residences, the merger of two (2) contiguous lots under common ownership to create a single parcel, and the construction of a new three (3)-story, 5,118-square-foot duplex with an attached 987-square-foot, four (4)-car garage. The project also includes additional appurtenances such as walls, fences, patios, drainage devices, and landscaping. The design complies with all applicable development standards and the applicant requests to waive the parcel map requirement for properties under common ownership
4. The subject properties are 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).
5. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential, Detached) (30.0 - 39.9 DU/AC) and the Coastal Zoning District is R-BI (Two-Unit Residential, Balboa Island).
6. A public hearing was held online on October 15, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. 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 15315 under Class 15 (Minor Land Divisions) and Class 3 (New Construction or Conversion of Small Structures), Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) 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 (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.
3. Class 3 exemption allows the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of two (2) single-family residences and the construction of a new 5,118-square-foot duplex with an attached 987-square-foot, four (4)-car garage.
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.

### ***Lot Merger***

In accordance with Sections 19.68.030(H) (Lot Mergers – Required Findings) of the NBMC, the following findings and facts in support of such findings are set forth:

#### Finding:

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

Facts in Support of Finding:

1. The proposed lot merger will combine two (2) lots under common ownership by removing the interior lot line between them. The merging of the two (2) lots will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of NBMC Title 19 (Subdivisions).

Finding:

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

Fact in Support of Finding:

1. The two (2) lots to be merged are under common fee ownership and are conditioned to remain under common fee ownership prior to recordation of the lot merger.

Finding:

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

Facts in Support of Finding:

1. The merged lots will retain the R-BI (Two-Unit Residential, Balboa Island) zoning designation, consistent with the surrounding area. The R-BI Zoning District is intended to provide for a maximum of two (2) residential dwelling units (i.e., duplexes) located on a single legal lot on Balboa Island.
2. The Land Use Element of the General Plan designates both properties as RT (Two-Unit Residential), which applies to a range of two (2)-family residential dwelling units such as duplexes and townhomes. The Coastal Land Use Plan designates the properties as RT-E (Two-Unit Residential) which provides for density ranges from 30.0 - 39.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan, and the overall density of RT-E designated lots on Balboa Island remains at 33.3 dwelling units per acre.
3. The subject properties are not located within a specific plan area.
4. Newport Beach Municipal Code Title 21 21.18.030 (Residential Coastal Zoning Districts General Development Standards) establishes the minimum standards required for lot creation. The minimum lot width required and the minimum lot area required in the R-BI zoning district is 50 feet and 2,375 square feet respectively. While the existing lots in their current configuration comply with lot area requirements, they are substandard for lot

width. The lots are approximately 2,700 square feet in area however they are only 32-foot-wide. Merging the two (2) lots will create one (1) parcel that meets both the minimum requirements for lot width and area. The width of the merged lot will be approximately 63 feet and the area will be approximately 5,363 square feet.

Finding:

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

Fact in Support of Finding:

1. Legal access for vehicular traffic is provided from South Bay Front Alley and will remain unchanged. Pedestrian access will be provided from South Bay Front. The site does not currently provide access to any other properties. No adjoining parcels will be deprived of legal access as a result of the merger.

Finding:

- E. *The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*

- a. *Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
  - b. *Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
  - c. *Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*
1. Balboa Island is a unique shape which results in lots of various shapes and sizes, especially along the waterfront. Properties within the 100 block of South Bay Front vary in size and width and although the proposed lot merger will create a lot that is larger than the immediately adjoining lots, it will not create an excessively large lot in comparison to other existing lots on the Island. There are existing lots similar in size to the merged lots. Some examples include 400 South Bay Front (5,100 square feet), 608 South Bay Front (5,100 square feet), 710 South Bay Front (5,200 square feet), 1410 South Bay Front (5,220 square feet), and 145 North Bay Front (4,607 square feet). Larger lots, such as 111 Park Avenue (6,425 square feet) can be found within 20 feet of the site. The majority of the comparable parcels are waterfront development and this lot merger would be consistent with this pattern.
  2. The width of the merged lots will be approximately 63 feet which is not excessive. The merged lot does not develop previously underdeveloped land, nor does it disrupt the character or livability of the neighborhood.

3. Orientation and access to the parcel would remain from South Bay Front Alley. The resulting lot configuration will not change the existing pattern of development in the area.
4. Fact in Support of Finding C.4 is hereby incorporated by reference.

### ***Waiver of Parcel Map***

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

#### Finding:

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

#### Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot lines and allow the property to be utilized as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.
2. The subject property is not subject to a specific plan. The property complies with the requirements of Title 21 LCP Implementation Plan, as detailed in the following section (Findings G and H).
3. The proposed lot merger combines two (2) contiguous lots under common ownership into a single parcel of land and does not result in the elimination of more than three (3) parcels.
4. The merged lot is within an urban environment and will be served by existing public utilities.

### ***Coastal Development Permit***

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

#### Finding:

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

Facts in Support of Finding:

1. The newly created parcel will comply with all development standards for the R-BI Coastal Zoning District. Facts in support of Finding C.1, C.2, and C.4 are incorporated here by reference.
2. 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 6,125 square feet and the proposed floor area is 6,104.79 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line abutting South Bay Front, 4 feet along each side property line, and 5 feet along the rear property line abutting South Bay Front Alley.
  - c. The highest guardrail is less than 24 feet from established grade of 9.00 feet North American Vertical Datum of 1988 (NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of four (4) vehicles complying with the minimum four (4)-car parking requirement for duplexes.
3. The neighborhood is predominantly developed with two (2)-story, single-family residences and duplexes; however, newer projects in the area are three (3)-story structures. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development consistent with applicable development standards.
4. A Coastal Hazards Report and Sea Level Rise Analysis, initially dated April 30, 2019 and revised on October 7, 2020, was prepared for the project by PMA Consulting, Inc. The project site is protected by a public boardwalk fronting the site along South Bay Front and an existing City-owned bulkhead will remain in place. The report states that the highest high tide elevation is currently 7.7 feet (NAVD88). Using the low-risk aversion projected sea level rise of a 2.9-foot increase over the 75-year design life of the structure (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update), the report concludes that the estimated sea level rise should result in a bay water level of 10.65 feet (NAVD88). The report evaluates the current height of the City owned bulkhead (approximately 8.6 feet NAVD88) and recommends that the bulkhead should be raised in the future. Because the bulkhead is not privately owned and cannot be raised by the homeowner, the report recommends water proofing techniques for the proposed structure. By utilizing a combination of a flashings and waterproofing for up to 18" above top of slab and sandbags at openings, the building should be protected from flooding until year of 2095. The project has been conditioned to require continuous waterproofing around the perimeter of the structure to

an elevation of 10.65 NAVD88 and a finish floor slab height of 9.00 NAVD 88 to protect against flooding.

5. The finished floor elevation of the first floor of the proposed structure is 9.00 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard for new structures.
6. 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 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. Pursuant to Section 21.35.050 of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by RCE Consultants, Inc. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
9. Proposed landscaping complies with Section 21.30.075 (Landscaping) of the NBMC. 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
10. The project site is not located adjacent to a designated coastal view road or Coastal Viewpoint as identified in the Coastal Land Use Plan. The proposed duplex complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the allowable neighborhood pattern of development.
11. The subject property is located on a waterfront lot that abuts the Balboa Island Loop. The Balboa Island Loop grants users with bay views and the opportunity to travel the outer perimeter of Balboa Island.



12. The nearest designated coastal viewpoint, as designated in the Coastal Land Use Plan, is over one-half mile east of the project site at the Park Avenue bridge that crosses the Grand Canal. The project site is located adjacent to Balboa Island Loop, which is accessible to the public and provides opportunities to view the bay.
13. The project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views. The front of the proposed residence, which is visible from South Bay Front, contains architectural treatments and visual interest in keeping with the design guidelines of the Zoning Code. The proposed structure is set back along South Bay Front further than the minimum five (5) feet required by Title 21. This design helps to prevent an overly bulky and massive appearance to pedestrian users of the loop.

Finding:

- H. 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 located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities. The proposed residential development neither provides nor inhibits public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project includes the construction of a new three (3)-story duplex. 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. Lateral access to the bay is provided by the loop and will continue to be provided by the loop. Vertical access to the loop is provided by Emerald Avenue.

**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) and 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 Lot Merger No. LM2020-001 and Coastal Development Permit No. CD2020-053 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. The approval of Lot Merger No. LM2020-001 and of Coastal Development Permit No. CD2020-053 shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Implementation Plan) of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 15<sup>TH</sup> DAY OF OCTOBER, 2020.**



---

Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to issuance of building permits, the project plans shall be updated to reflect that waterproofing flashing will be constructed around the perimeter of the structure to a minimum height of 10.65 NAVD88 as an adaptive flood protection device. Flood shields (sandbags and other barriers) can be deployed across the openings to protect prevent flooding to the structure. The finish floor elevation shall be at a minimum of 9.00 NAVD88.*
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.
5. Prior to recordation of the lot merger, the two (2) lots shall be held entirely under one (1) common fee ownership.
6. The map shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid.
7. Prior to the issuance of building permits for construction across the existing interior lot lines, recordation of the lot merger documents with the County Recorder shall be required.
8. *Prior to final building permit inspection, the property owner shall obtain regulatory approval and remove one of the existing boat slips.*
9. 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.
10. 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.

11. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
12. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands or public beaches.
13. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
  - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
14. 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.
15. 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.
16. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

17. 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.
18. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
19. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
20. 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.
21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved WQHP/WQMP and any changes could require separate review and approval by the Building Division.
27. 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.

28. 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.
29. 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.
30. 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.
31. This Lot Merger No. LM2020-001 and Coastal Development Permit No. CD2020-053 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.
32. 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 Ardmore Properties Series, LLC Duplex including, but not limited to, Lot Merger No. LM2020-001 or Coastal Development Permit No. CD2020-053 (PA2020-111). 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 Department**

33. Proposed encroachments within the Bay Front South right of wall shall be consistent with City Council Policy L-6 and requires execution of the encroachment permit and encroachment agreement.
34. Each residential unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.

## RESOLUTION NO. ZA2020-067

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-117 FOR A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 113 GRAND CANAL (PA2020-183)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by R.A. Jeheber Residential Design, Inc., on behalf of Cabin 3, LLC with respect to the property located at 113 Grand Canal, and legally described as Lot 9 of Block 2 of Section 4 of Balboa Island, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new 2,501-square-foot, single-family residence with a 399-square-foot attached 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 Two-Unit Residential, Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential Detached) – (30.0-39.9 DU/AC) and the Coastal Zoning District is Two-Unit Residential, Balboa Island (R-BI).
5. A public hearing was held online on October 15, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-BI Coastal Zoning District.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 2,900 square feet and the proposed floor area is 2,900 square feet.
  - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting Grand Canal, 5 feet along the property line abutting the alley, and 3 feet along each side property line.
  - c. The highest guardrail/parapet is below 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
  - d. The proposed development provides a two-car garage, meeting the minimum garage requirement for a single-family residence.
  - e. The proposed development complies with the minimum 9.0-foot North American Vertical Datum of 1988 (NAVD 88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. A Coastal Hazards Report was prepared by GeoSoils, Inc. on June 15, 2020. The project site is protected by a public boardwalk fronting the site along the Grand Canal and an existing City-owned bulkhead, which will remain in place. The report concludes that the highest high tide elevation (currently 7.7 feet NAVD 88) will not exceed 10.65 feet North American Vertical Datum of 1988 (NAVD 88) using the low-risk aversion projected sea level rise (2.9-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6 feet (up to 13.7 feet NAVD 88). The City-owned bulkhead is approximately 8.6 feet (NAVD 88) and it is recommended that the City increase the height of all public bulkheads on Balboa Island in the future. The



report concludes that if the proposed project is waterproofed and the City-owned bulkhead is raised, the project will not be adversely impacted by potential coastal hazards.

4. The finish floor elevation of the proposed dwelling is 9.0 feet (NAVD 88), which complies with the minimum 9.0-foot NAVD 88 elevation standard. Continuous waterproofing shall be extended around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.65 feet (NAVD 88). Flood shields (sandbags and other methods) can be deployed across the openings to prevent flooding to the structure.
5. Pursuant to Municipal Code 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 2,500 square feet of impervious surface area, a Water Quality Management Plan (WQMP) is required. As conditioned, a WQMP shall be submitted and reviewed by the City's Engineer Geologist prior to building permit issuance. The WQMP shall include polluted runoff and hydrologic site characterization, a sizing standard for Best Management Practices (BMPs), use of a Low Impact Development approach to retain the design's storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
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. The project site is not located adjacent to a coastal view road, public viewpoint, public park, beach, or public accessway, as identified in the Coastal Land Use Plan. However, the Coastal Land Use Plan identifies the Park Avenue bridge that crosses the Grand Canal as a public view point. The subject property is located approximately 220 feet from the bridge. The proposed project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project may be located within the viewshed of distant public viewing areas. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located on the Balboa Island between the nearest public road and the sea. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Vertical access to the bay is available near the site on Marine Avenue and Grand Canal. The nearest lateral access is located on South Bay Front and South Bay Front Alley.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-117, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of 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 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 15<sup>TH</sup> DAY OF OCTOBER, 2020.**



---

Jaime Murillo  
Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2020-117 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. Prior to the issuance of a Certificate of Occupancy, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).

9. Continuous waterproofing shall be extended around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.65 feet (NAVD 88). Flood shields (sandbags and other methods) can be deployed across the openings to prevent flooding to the structure.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. 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 WQHP/WQMP and any changes could require separate review and approval by the Building Division.
14. 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.
15. 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.
16. 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.
17. 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.
- 18. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
  - 19. 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.
  - 20. 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.
  - 21. Prior to issuance of the 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 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.
  - 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 either the current business owner, property owner, or the leasing agent.
  - 25. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Cabin 3, LLC Residence including, but not limited to, Coastal Development

Permit No. CD2020-117 (PA2020-183). 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. ZA2020-068

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-130 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW THREE-STORY SINGLE-FAMILY RESIDENCE WITH ATTACHED 2-CAR GARAGE LOCATED AT 413 AND 413 ½ EDGEWATER PLACE (PA2020-215)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero (Applicant), with respect to property located at 413 and 413 ½ Edgewater Place, requesting approval of a coastal development permit.
2. The lot at 413 and 413 ½ Edgewater Place is legally described as Lot 8 of Block 2 of the Balboa Bayside Tract.
3. The Applicant requests a coastal development permit to allow the demolition of an existing duplex and the construction of a new three-story, 2,591-square-foot single-family residence with an attached 475-square-foot two-car garage. No work is proposed to the adjacent public boardwalk or City-owned bulkhead. The project design complies with all development standards and includes hardscape, patios, site walls, drainage devices, and landscaping.
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-E (Two Unit Residential – 30.0 – 39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zoning District.
6. A public hearing was held online on October 15, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

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

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of a duplex and the construction of a new 2,591-square-foot single-family residence and attached 475-square-foot two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the 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 3,154 square feet and the proposed floor area is 3,066 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 7 feet along the front property line abutting Edgewater Place, 3 feet along each side property line and five feet along the rear property line abutting the alley.
  - c. The highest guardrail is less than 24 feet from established grade (9.25 foot North American Vertical Datum of 1988 (NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of 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. Since the existing duplex would be demolished for the construction of a single-family residence, density on site would be reduced by one unit. Recent changes to State law temporarily prohibiting reduction of residential density under SB330 do not apply in this case. A letter from the California Department of Housing and Community Development dated July 31, 2020, clarified to the City that single-family developments do not meet the definition of a "housing development" as described in Government Code section 66300, subdivision (a)(6).



The development of a single-family residential development at the site is compatible with City plans and Codes, including the City's certified Local Coastal Program.

3. The neighborhood is developed with one, two- and three-story, single-family and two-unit residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc. dated July 21, 2020, for the project. The subject site is protected from the bay by a City-owned bulkhead, which reaches a height of approximately 8.6 feet (NAVD88). The bulkhead that protects the property is part of a larger bulkhead system, which surrounds sections of the peninsula. No changes to the bulkhead are proposed. The current maximum bay water elevation is 7.7 feet (NAVD88). The report analyzes future sea level rise scenarios assuming a 2.9-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.65 feet (NAVD88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). However, the bulkhead is not privately owned and the property owner does not have the ability to raise the City-owned bulkhead. Therefore, a waterproofing curb is proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.65 feet (NAVD88). Flood shields (sand bags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the flood protection curb. The project has been conditioned to require the proposed waterproofing curb.
5. The finish floor elevation of the proposed single-family residence is 9.25 feet (NAVD88), which complies with the minimum 9 feet (NAVD88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD88) will not exceed the proposed flood protection curb around the single-family residence at 10.65 feet (NAVD88) for the anticipated 75-year life of the structure.
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 property is adjacent to coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff onsite. Any water not retained onsite is directed to the City's storm drain system.
9. Pursuant to Section 21.35.050 of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Thomas M. Ruiz, Civil Engineer, on July 29, 2020. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
10. Proposed landscaping will 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.
11. 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 in Peninsula Park and is not visible from the site. The site is located adjacent to Edgewater Place (boardwalk), which is accessible to the public and provides some opportunities to view the bay. As currently developed, the existing property and other residences along Edgewater Place are located within the view shed of the bay. However, 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.
12. The project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views. The front of the proposed residence, which is visible from Edgewater Place, contains architectural treatments and visual interest in keeping with the design guidelines of the Zoning Code. Fronting the bay, the project's covered decks on the first and second levels separate the proposed dwelling from the setback approximately five feet, helping to relieve massing from the boardwalk. Stone veneer, stainless steel, and cedar features accent large floor-to-ceiling glass door systems to form an integrated design consistent with the surrounding development.

Finding:

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

Fact in Support of Finding:

1. The project site is 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 duplex located on standard 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. Vertical access to the bay is available at the ends of the block, along Cypress Street and Adams Street. Lateral access is available adjacent to the subject property, along the existing public boardwalk. There is a pedestrian walkway easement along the boardwalk to ensure public access, as decided by California Superior Court Case 169606. The project does not include any features that would obstruct access along these routes and no construction is proposed bayward of the subject property.

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 and the exceptions to this exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-130, 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 15<sup>TH</sup> DAY OF OCTOBER, 2020.**



---

Jaime Murillo  
Zoning Administrator

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK**

**EXHIBIT "A"**

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *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 10.65 feet (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 including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
4. Prior to the issuance of a building permit, the property owner shall submit a notarized and 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.
7. This Coastal Development Permit does not authorize any development seaward of the private property.

8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
  - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
15. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.

16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
17. Prior to the issuance of 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.
18. 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.
19. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
20. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
21. Prior to 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.
22. 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.
23. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
24. 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.
25. 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.

26. This Coastal Development Permit No. CD2020-130 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 NBMC, unless an extension is otherwise granted.
27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Collins Residence including, but not limited to, Coastal Development Permit No. CD2020-130 (PA2020-215). 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

28. The existing public walkway along Edgewater Place shall be maintained.
29. Any damaged sidewalk, alley, or bulkhead shall be repaired. Extent of repair shall be per Public Works Inspector and Community Development Director.