



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 December 11, 2020.

ZONING ADMINISTRATOR ACTIONS DECEMBER 10, 2020

- Item 1: Hohberg Residential Condominiums Tentative Parcel Map No. NP2020-014 and Coastal Development Permit No. CD2020-142 (PA2020-277)
Site Address: 114 19th Street
Action: Approved by Resolution No. ZA2020-075 Council District 1
- Item 2: Mumma Residence Coastal Development Permit No. CD2020-135 (PA2020-256)
Site Address: 74 Linda Isle
Action: Approved by Resolution No. ZA2020-076 Council District 5
- Item 3: Jahangiri Residence Coastal Development Permit No. CD2020-141 (PA2020-284)
Site Address: 1015 Mariners Drive
Action: Approved by Resolution No. ZA2020-077 Council District 3
- Item 4: South Bayfront Waterpointe, LLC Residence Coastal Development Permit No. CD2020-122 (PA2020-208)
Site Address: 400 South Bay Front
Action: Approved by Resolution No. ZA2020-078 Council District 5
- Item 5: South Bayfront Waterpointe, LLC Residence Coastal Development Permit No. CD2020-123 (PA2020-209)
Site Address: 402 South Bay Front
Action: Approved by Resolution No. ZA2020-079 Council District 5
- Item 6: Gondola Adventures Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 (PA2020-273)
Site Address: 200 Bayside Drive
Action: Approved by Resolution No. ZA2020-080 Council District 5

Item 7: City of Newport Beach Pay Station Modernization Coastal Development Permit No. CD2020-139 (PA2020-317)

Site Address: Citywide

Action: Approved by Resolution No. ZA2020-081	Citywide
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Item 8: Superior Avenue Pedestrian and Bicycle Bridge, Parking Lot and Recreation Area Project Coastal Development Permit No. CD2020-143 and Mitigated Negative Declaration Addendum No. ND2019-002 (PA2019-014)

Site Address: Bridge to span Superior Avenue north of West Coast Highway Intersection – Parking lot and recreation area at northeast corner of intersection and bounded by West Coast Highway, Superior Avenue, Hoag Lower Campus and Sunset View Park

Action: Approved by Resolution No. ZA2020-082	Council District	2
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**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

Item 1: 4M Dental Implant Center – Staff Approval No. SA2020-005 (PA2020-345)

Site Address: 20331 Irvine Avenue, Suite E7 (2nd Floor)

Action: Approved	Council District	3
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2020-075

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2020-014 AND COASTAL DEVELOPMENT PERMIT NO. CD2020-142 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 114 19TH Street (PA2020-277)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Aust Architect (Applicant), with respect to property located at 114 19th Street, and legally described as Lot 15 Block 18 of Section B Newport BH, Newport Beach, County of Orange requesting approval of a tentative parcel map and a coastal development permit for condominium purposes.
2. The Applicant requests a coastal development permit and tentative parcel map for two-unit condominium purposes. A single-unit dwelling has been demolished and a new duplex is currently under construction. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually. The Tentative Parcel Map also requires the approval of a coastal development permit pursuant to NBMC Title 21 (Local Coastal Program Implementation Plan).
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is also located within the coastal zone. The Coastal Land Use Plan designation is Two-Unit Residential (20.0 – 29.9 DU/AC) (RT-D) and it is within the Two-Unit Residential (R-2) Coastal Zoning District.
5. A telephonic public hearing was held online on December 10, 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 NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for condominium purposes and meets all of the requirements of the Local Coastal Program, including NBMC Section 21.30.025 (Coastal Zone Subdivisions).
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies. The new duplex construction was approved and is currently under construction.
3. The Tentative Parcel Map is for a property within a developed residential neighborhood. The subject property is approximately 150 feet from the West Ocean Front boardwalk and beach, is separated by a row of existing residential development and is within the Categorical Exclusion Area. The development of the duplex was approved pursuant to the Categorical Exclusion Order (CEO2020015).

Finding:

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

Fact in Support of Finding:

1. The project is located between the nearest public road and the sea or shoreline. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a tentative parcel map for condominium purposes. A single-unit dwelling has been demolished and will be replaced with a new duplex meeting all condominium standards. As such, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.

Tentative Parcel Map

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-unit has been demolished and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the 19th Street and West Balboa Boulevard frontages, consistent with NBMC Title 19 (Subdivision Code).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a duplex development because it is rectangular in shape, topographically flat, and under development with a new duplex.

2. The subject property is accessible from 19th Street and the alley and is adequately served by existing utilities.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The new 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:

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

Fact in Support of Finding:

1. The new duplex is designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2020-014 and Coastal Development Permit No. CD2020-142, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan). Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF DECEMBER, 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. Prior to recordation of the Parcel Map, a park fee shall be assessed for one unit.
3. 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.
4. The building permit for the new construction shall not be final until after recordation of the parcel map.
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan).
6. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Hohberg Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2020-014 and Coastal Development Permit No. CD2020-142 (PA2020-277). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PUBLIC WORKS

7. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Sub-article 18. **The**

Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.

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, Sub-article 18. Monuments (one-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
9. An encroachment permit is required for all work activities within the public right-of-way.
10. All improvements shall be constructed as required by Ordinance and the Public Works Department.
11. The existing broken and/or otherwise damaged concrete sidewalk and curb and gutter along the 19th Street and Balboa Boulevard frontages and concrete alley panels along the alley frontage shall be reconstructed.
12. All existing overhead utilities shall be undergrounded.
13. All above ground improvements shall stay a minimum five-foot clear of the alley setback.
14. Each unit shall be served by its individual water service/meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover per City Standards.
15. A new accessible compliant curb ramp shall be installed at the corner of 19th Street and Balboa Boulevard per City Standard.
16. The existing unused driveway shall be plugged per City Standard STD-165-L.
17. The new driveway along 19th Street shall be constructed per City Standard.
18. All site drainage shall comply with current water quality requirements.

BUILDING

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

RESOLUTION NO. ZA2020-076

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-135 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED THREE (3)-CAR GARAGE LOCATED AT 74 LINDA ISLE. (PA2020-256)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ritner Group (Applicant), with respect to property located at 74 Linda Isle and legally described as Lot 74 of Tract 4003, requesting approval of a coastal development permit.
2. The Applicant proposes to demolish an existing single-family residence and construct a new 5,327-square-foot residence with attached 867-square-foot, three (3)-car garage. The project also includes the construction of landscaping, hardscaping, drainage, site walls, a reinforced bulkhead cap for protection against coastal hazards, and a cantilevered deck. The design complies with all applicable development standards and no deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single Unit Residential Detached – 6.0 – 9.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held online on December 10, 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), 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 exempts 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 one (1) single-family residence and the construction of a new 5,327-square-foot residence with attached 867-square-foot, three (3)-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 Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 10,976 square feet and the proposed floor area is 6,194 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the property line abutting the Newport Bay, 4 feet along each side property line and 25 feet along the property line abutting the Linda Isle private drive.
 - c. The highest guardrail is less than 24 feet from established grade (10.02 feet North American Vertical Datum [NAVD88]) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of three (3) vehicles, complying with the minimum three (3)-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
 - e. A cantilevered deck will be reviewed separately through an Approval In Concept (AIC) and the design shall conform with 21.30C.050.
2. The neighborhood is predominantly developed with two (2)-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with

the existing neighborhood pattern of development consistent with applicable development standards.

3. The development fronts the Newport Bay and is protected by a bulkhead. A bulkhead conditions report was originally prepared by William Simpson & Associates, Inc. on August 4, 2020 and was updated on November 13, 2020. The reports concluded that while the bulkhead is in good condition with minor, repairable, cracks, it cannot handle the load of the new cantilevered deck that is proposed. The existing deck will need to be demolished and the bulkhead will need to be reinforced through the installation of new tiebacks and new deadmen. The installation of the tiebacks and deadmen will occur after the demolition of the existing home is complete and prior to the construction of the new home. Once the bulkhead is reinforced in accordance with the enclosed drawings, no repair or replacement of the bulkhead is anticipated within the next 75 years.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by William Simpson & Associates, Inc. dated August 4, 2020, for the project. The current maximum bay water elevation is 7.7 feet NAVD88 and may exceed the existing bulkhead during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 2.95-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). 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). Once the existing bulkhead is reinforced and capped per the report's recommendations, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. No waterproof flashing or curb has been required.
5. The finish floor elevation of the proposed single-family residence is at a minimum elevation of 9.98 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard.
6. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection), 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) (General Site Planning and Development Standards). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
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. As the property is adjacent to coastal waters, a Construction Pollution Prevention Plan (CPPP) was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
9. Pursuant to NBMC Section 21.35.050, 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 Toal Engineering, Inc. dated August 07, 2020. 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.
10. Proposed landscaping complies with NBMC 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 closest designated Public Viewpoint is located approximately 1,200 feet to the east of the property near the intersection of Bayside Drive and Harbor Island Drive. Additionally, the proposed residence is located to the south of Coast Highway and to the west of Bayside Drive, which are both Coastal View Roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the public viewpoint and the project's compliance with height and setback development standards, the project will not be visible in the aforementioned locations and will not result in impacts to coastal views. As a bayfront property, the west elevation of the new development will be visible from the water. The design complies with all required setbacks which minimizes the appearance of building bulk and the design uses architectural treatments which will enhance views from the water.

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. Linda Isle is a private, 107-lot, single-family residence community created in 1933 and developed in the 1960s. The community predates the California Coastal Act and does not provide public access to the bay or shore. A gated bridge connects the island to the mainland at Bayside Drive. While Bayside Drive is the first public road paralleling the sea

and the project site is located between Bayside Drive and the Harbor, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

2. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on standard R-1 lot with a new single-family residence. The project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.

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 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.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-135, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Implementation Plan) of the NBMC. 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 10TH DAY OF DECEMBER, 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. *The existing seawall shall be reinforced and capped to 10.65 feet (NAVD88) minimum in accordance with the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by William Simpson & Associates, Inc. and as identified in the approved plans.*
3. *The Applicant shall increase the height of the existing bulkhead to a minimum elevation of 10.65 feet (NAVD88). California Coastal Commission approval shall be required to replace the existing bulkhead with a new bulkhead at a minimum elevation of 10.65 feet (NAVD88).*
4. *The Applicant shall obtain approval from the California Coastal Commission in order to construct a new cantilevered deck and the deck shall be designed in compliance with NBMC 21.30C.050(G)(5).*
5. *Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices 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.*
6. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.*
7. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.

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

16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
17. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
18. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
19. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
20. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
21. Prior to 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.
22. 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.
23. 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.
24. Prior to the issuance of building permits, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
25. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

26. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
27. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
28. This Coastal Development Permit No. CD2020-135 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
29. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Mumma Residence including, but not limited to, Coastal Development Permit No. CD2020-135 (PA2020-256). 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. ZA2020-077

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-141 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-STORY, SINGLE-FAMILY RESIDENCE, WITH BASEMENT, AND ATTACHED THREE (3)-CAR GARAGE LOCATED AT 1015 MARINERS DRIVE (PA2020-284)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Olsen, Architect (Applicant), with respect to property located at 1015 Mariners Drive, and legally described as Lot 56 of Tract 4224, 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 5,895-square-foot residence and attached 656-square-foot, three (3)-car garage. The project also includes the construction of an 850-square-foot detached pool house, an in-ground pool, raised deck, landscaping, hardscaping, drainage, and site walls. The design complies with all applicable development standards and no deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1-6000 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single Unit Residential Detached – 0.0 – 5.9 DU/AC) and it is located within the R-1-6000 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held online on December 10, 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), 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 exempts 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 one (1) single-family residence and the construction of a 5,895-square-foot residence, attached 656-square-foot, three (3)-car garage, and detached 850-square-foot pool house.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, site coverage, setbacks, height, parking, and Bluff Overlay standards.
 - a. Site coverage is limited to 60 percent (10,222 square feet) of the 17,036-square-foot lot area. The proposed site coverage area is approximately 37 percent (6,312 square feet).
 - b. The proposed development provides the minimum required setbacks, which are 20 feet along the front bluff-side property line, 6 feet along each side property line and 6 feet along the rear property line of Mariners Drive.
 - c. The highest roof ridge is approximately 14 feet, 6 inches from established grade (60.58 feet based on the North American Vertical Datum of 1988 [NAVD88]), significantly less than the 24-foot maximum height limit requirement.
 - d. The project includes garage parking for a total of three (3) vehicles, complying with the minimum three (3)-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
 - e. Pursuant to the Bluff Overlay Map B-9D (Upper Newport Bay Bluffs), the property is located on a bluff subject to marine erosion. Consistent with the Bluff Overlay standards, the proposed principal dwelling and major accessory structures (including

swimming pool) are located within Development Area A and setback, at a minimum, of 25 feet from the bluff edge. Minor accessory structures are proposed within Development Area B and setback, at a minimum, of 10 feet back from bluff edge. No accessory structures are proposed within Development Area C. Additionally, Condition of Approval number 5 requires the removal of any improvements located within Development Area C that are not explicitly allowed per NBMC Section 21.30.030(C)(3) (21.28.040 Bluff (B) Overlay District).

2. The neighborhood is predominantly developed with one (1)-story, single-family residences. The proposed single-story design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
4. The lot has been graded previously to provide a relatively level building pad approximately 60 feet above mean sea level adjacent to a bluff that descends approximately 50 feet to the Upper Newport Bay. A Geotechnical Investigation, dated April 27, 2020 was prepared by EGA Consultants, for the project and found that the proposed grading and construction will not adversely affect geologic stability of the existing bluff or adjoining properties or structures, provided construction is performed in accordance with report recommendations. In addition, the report found that the geologic conditions of the site are favorable with respect to gross stability of the bluff that descends from the subject property to the bay. The site is not susceptible to earthquake-induced liquefaction or landsliding. The report concludes that as the project site is located adjacent to a descending bluff slope, proper drainage design is of critical importance to the stability of the slope and shall be designed by a Licensed Civil Engineer.
5. The property is located in an area known for the potential of seismic activity. 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.
6. 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.
7. A biological assessment was completed on September 17, 2020 by Hamilton Biological Inc. The report found no listed or otherwise sensitive species present and ultimately

recommended a condition that all proposed ocean-facing deck railing systems, fences, screen walls, and gates shall use materials designed to minimize bird-strikes

8. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection), 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) (General Site Planning and Development Standards). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
9. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the water and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQMP prepared by Duca-McCoy, Inc., dated September of 2020 has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for best management practices (BMPs), use of low impact development and treatment control approaches to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed best management practices BMPs.
10. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
11. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). 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 and only temporary irrigation is installed within 10 feet of bluff edge (Bluff Development Area C).
12. The project site is located approximately 250 feet south of a designated public viewpoint as identified in the Coastal Land Use Plan. The viewpoint offers public views to the north, east, and southeast of the Upper Newport Bay. A site evaluation found that the project site is the third property to the south of the viewpoint and is situated within an existing neighborhood which obscures any historic views to the south of the Upper Newport Bay. The project will replace an existing single-family residence with a new single-family home. Furthermore, the residence has been designed to be single-story with 1,755-square-feet of living area located below grade within the basement level. The single-story home rises no more than 14-feet, 6-inches above the average existing grade which is almost 15 feet lower than the allowable height for sloped roofs in the R-1-6000 coastal zoning district. The single-story height ensures that the residence will be no more visible from the Upper Newport Bay than the surrounding neighborhood and will not degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea along the Upper Newport Bay Bluffs. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on standard R-1-6000 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. Fact 12 in support of Finding A is incorporated here by reference.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 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 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.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No.CD2020-141, 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 10TH DAY OF DECEMBER, 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. *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.*
3. *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.*
4. *Swimming pools shall be of double wall construction with subdrains between the walls and leak detection devices or an equivalent method.*
5. *The only allowed development within Development Area C is limited to the following: drainage devices (only if not feasible to be placed elsewhere on the site), landscaping/temporary irrigation systems, on-grade public trails, on-grade public stairways, underground utilities (only if not feasible to be placed elsewhere on the site), or shoreline protective devices in compliance with NBMC Section 21.30.030(C)(3). Any other improvements shown on the plans shall be removed.*
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. 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.
9. *Prior to the issuance of a building permit, the Applicant shall submit a final site plan where all proposed ocean-facing deck railing systems, fences, screen walls, and gates utilize materials designed to minimize bird-strikes. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially frosted glass, Plexiglas or other visually permeable barriers that are designed to prevent creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird-strikes by reducing reflectivity and transparency are also used.*
 10. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
 11. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
 12. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
 13. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

15. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
16. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
18. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
20. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
21. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
22. Prior to issuance of building permits, the final WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
23. Prior to the issuance of building permits, the Applicant shall submit a revised 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. The plans shall conform with NBMC Section 21.30.030(C)(3) (Natural Landform and Shoreline Protection), 21.28.040 (Bluff (B) Overlay District), and 21.30.075 (Landscaping).
24. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming.

All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

25. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
27. This Coastal Development Permit No. CD2020-141 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
28. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Jahangiri Residence including, but not limited to, Coastal Development Permit No. CD2020-141 (PA2020-284). 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. ZA2020-078

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-122, TO ALLOW THE CONSTRUCTION OF A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE WITH A JUNIOR ACCESSORY DWELLING UNIT AND AUTHORIZE THE SUBDIVISION OF TWO (2) PARCELS WITH A VARIANCE TO MINIMUM LOT WIDTH REQUIREMENTS AT 400 SOUTH BAY FRONT (PA2020-208)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (“Applicant”), on behalf of South Bayfront Waterpointe, LLC (“Owner”), with respect to property located at 400 South Bay Front, and legally described as Parcel 1 of Parcel Map No. 83-710, requesting approval of a coastal development permit. The proposed legal description of the lot is Parcel 1 of Tentative Parcel Map No. 2018-162.
2. The Applicant proposes to construct a new three (3)-story single-family residence with attached garage consisting of 2,807 square feet on a vacant lot. The proposal includes an attached junior accessory dwelling unit (JADU) of 311 square feet, hardscape, walls, landscaping, and drainage facilities. A Coastal Development Permit (CDP) is required to allow for the proposed development and to authorize the previously approved subdivision that created two (2) lots (NP2019-004 - PA2019-063) under the Local Coastal Implementation Plan. A variance to Title 21 is required as the proposed project does not meet the minimum lot width identified in Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards).
3. The subject property is located within the R-BI (Two-Unit Residential, Balboa Island) Zoning District and the General Plan Land Use Element category is RT (Two Unit Residential).
4. The subject property is located within the coastal zone and has a Coastal Land Use Designation of RT-E (Two-Unit Residential) (30.0 - 39.9 DU/AC) and a Coastal Zoning District of RB-I (Two-Unit Residential, Balboa Island).
5. A public hearing was held on February 28, 2019, at which time the Zoning Administrator approved CD2018-073 (PA2018-170) authorizing the demolition of two (2) existing multi-unit structures containing a total of five (5) units. A building permit to demolish the structures was issued on April 4, 2019.
6. A public hearing was held on June 13, 2019, at which time the Zoning Administrator approved NP2019-004 and CD2019-016 (PA2019-063) authorizing a tentative parcel map and CDP for the construction of a single-family residence and parcel map. The parcel map

divided the subject lot into two (2) parcels. However, on July 17, 2019 (received July 22, 2019) the CDP was appealed by the Coastal Commission and in January 2020, the applicant withdrew the CDP application. However, the tentative parcel map was approved and became effective on June 28, 2019 (prior to the Coastal Commission's action). The approved Tentative Parcel Map that became effective June 28, 2019, was not recorded as Coastal Development permit No. CD2019-016 (PA2019-063), which authorized the subdivision as development under Title 21 was withdrawn. Thus, the current coastal development permit request includes the previously authorized tentative parcel map No. NP2019-004 (PA2019-063) pursuant to Title 21. Additionally, a variance to Title 21 standards is required to waive the minimum lot width requirements.

7. A public hearing was held online on December 10, 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, Division 6, Chapter 3, of the CEQA 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 up to six (6) dwelling units in urbanized areas. The proposed project consists of the construction of a new 3,118-square-foot single-family residence and attached two (2)-car garage with a junior accessory dwelling unit above.
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.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Coastal Development Permit is for a property within a developed neighborhood, on a lot that is not near any natural landforms including coastal bluffs and is not within the proximity of any environmentally sensitive areas. The property is separated from Newport Bay by a public boardwalk and bulkhead.
2. The proposed structure conforms to all applicable development standards including, but not limited to, floor area limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 3,188 square feet and the proposed gross floor area is 3,118 square feet. The maximum floor area for the JADU is 500 square feet, and the proposed JADU is 308 square feet.
 - b. The proposed development (including JADU) will provide the required setbacks, which are zero feet along the front property line abutting the boardwalk, 3 feet along the side property lines, and 5 feet along the rear property line abutting the alley.
 - c. The highest flat roof is no more than 24 feet, measured from the finished floor level of 9.00 feet North American Vertical Datum of 1988 (NAVD88) and the highest roof ridge is no more than 29 feet, measured from the finished floor level, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two (2) vehicles, which complies with the minimum two (2)-space parking requirement for single-family residences with less than 4,000 square feet of livable floor area. No additional parking is required for the JADU.
3. The project is conditioned to require the recordation of a deed restriction that will prohibit the use of the JADU for short term rentals (i.e. less than 30 days) and will also prohibit the sale of the JADU separate from the principal dwelling.
4. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and applicable development standards, as the neighborhood is predominantly developed with two (2) and three (3)- story, single-family residences and mixed-use buildings along Agate Avenue.
5. The property is a bay front lot that is separated from the ocean by a public boardwalk and City-owned concrete bulkhead. A Coastal Hazards and Sea Level Rise report, dated December 5, 2019, was prepared for the project by GeoSoils, Inc. followed by a Coastal Hazards and Sea Level Rise Supplement dated September 22, 2020. The Coastal Hazards and Sea Level Rise supplemental report was provided to evaluate coastal hazard implications of the subdivision (NP2019-004).
6. The current maximum bay water elevation is 7.7 (NAVD88) and would not exceed the existing 8.96 feet (NAVD88) top of bulkhead elevation during high tide or storm events. 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). As conditioned, a waterproofing curb or other waterproof material is required and proposed 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.

7. According to the Coastal Hazards Report and Supplement, future sea level rise of 1.3 or greater would result in overtopping of the existing bulkhead which is at 8.96 feet (NAVD88). Most of the streets on Balboa Island are approximately 6.5 feet (NAVD88), and the flooding of Balboa Island is an existing coastal hazard. The public boardwalk is continuous and provides public access around the entire island. A new or higher shoreline protective device is not currently needed to protect the proposed structure, but it is already necessary to protect the existing buildings, streets, and the boardwalk. The existing bulkhead is owned by the City of Newport Beach and the adjacent property owner is not able to increase the height of the bulkhead as part of this CDP. If the City adopts comprehensive sea level rise adaptation strategies to protect the public streets and public access areas, then the property owner will also be protected as a result. As a condition of approval, the property owner will be required to waive their rights to future protection devices.
8. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). Therefore, the proposed The property owner will be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
9. Pursuant to the Local Coastal Program (LCP) Policy 21.30.025, proposed subdivisions shall be designed to avoid current hazardous areas as well as areas that may become hazardous as a result of sea level rise. The policy also states that no division of land near the bay shall be permitted unless the reconfigured parcels can be developed safe from hazards for a minimum of 75 years and shoreline protective devices are prohibited to protect development on the resultant parcels. LCP Policies 2.8.1-2 and 2.8.1-3 also suggest that new development should be sited to avoid hazardous areas and minimize risks to life and property from hazards. The previously existing residential structure on the lot had a finished floor of approximately 7.43 feet (NAVD88), which is lower than the maximum bay water elevation of 7.7 feet (NAVD88). The proposed project would construct new residences and junior accessory units that would comply with both FEMA and City minimum finished floor requirements of at least 9.0 feet (NAVD88). As conditioned, the proposed project would also include waterproofing up to 10.65 feet (NAVD88), which would increase the number of years that the structure is protected. The project represents

an improvement from previously existing conditions and provides critical housing opportunities in the coastal zone beyond the minimum required by the IP and Zoning Code.

10. The proposed subdivision into two (2) lots represents a return to the original tract map configuration and is not considered a traditional subdivision. In this case, the original site from 1910 (Map of Resubdivision of Section One of Balboa Island) established two (2) lots of approximately the same size for this site. It was not until 1983, 73 years later, that the two (2) lots were combined under one (1) ownership as Parcel Map No. 83-710. Therefore, the proposed subdivision is not a standard subdivision that creates new parcels, but rather a map that reestablishes the original pattern of development of Balboa Island.
11. LUP Policy 2.8.6-7 discourages shoreline protective devices on public land that protect private property and development. However, in this case, the City bulkhead is existing and is necessary to protect public access around Balboa Island as well as the low-lying streets. If the City were to abandon the streets and public access areas in the future for Balboa Island (due to sea level rise), then that decision would be part of a much larger adaptation plan involving thousands of stakeholders and oversight by the California Coastal Commission.
12. The finished floor elevation of the first floor of the proposed structure is 9.00 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures.
13. 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.
14. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
15. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
16. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities due to its location and orientation. 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, single-family residence and JADU. The existing and proposed use of the site is residential, and the number of dwelling units on the property would not be increased as part of the project. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand on public access and recreation opportunities.
2. The project is designed and sited so as not to block or impede existing public access opportunities. All proposed encroachments into the public right of way would be required to comply with City Council Policy L-6 which limits the height and extent of encroachments and plantings to limit impacts to views and access. There is an existing 6-foot high wooden fence along the boardwalk that would be removed as part of the project to conform with the City's current standards for encroachments, and would reduce the visual bulk of the site. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the public boardwalk along the waterfront.
3. The previously demolished residential structure encroached into the front, rear, and side setbacks, where the proposed single-family residence and JADU would comply with required setbacks, thereby providing additional visual relief from the property lines. The proposed structure would provide setbacks greater than the code requirements, especially within the front setback on the Bay Front where the setback is zero and the structure provides approximately 8 to 13 feet. The upper levels are also setback, with open balconies, overhangs, and roof deck. The proposed design also limits size and location of the enclosed third floor area and concentrates the bulk within the center of the site.
4. The previously approved tentative parcel map (NP2019-004) allowed the two (2) lots to be returned to their original two (2) -lot configuration with a property line between the two (2) proposed structures. The return to the original configuration creates a 6-foot distance between the two (2) principal structures due to the 3-foot side yard setbacks that would be implemented as part of the project. Therefore, the coastal development permit required to implement the approval parcel map would comply with Chapter 3 of the Coastal Act.

5. The property is not located near coastal view roads. The property is located within the viewshed of the Balboa Island Park, which is an identified public beach or park (Coastal Views Map 4-3). However, the park provides limited views to the subject site from the southwest corner of the park and the existing and proposed uses are residential. The project is also visible from the Ferry, which is not a designated viewpoint but provides views of the harbor and surrounding shoreline. The project would update the existing aesthetics of the lot by providing a new updated building that complies with the City's Design Guidelines. Therefore, the project would not degrade the quality of the coastal zone and associated public views.

Coastal Variance

In accordance with Section 21.52.090 (Relief from Implementation Plan Development Standards) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The subject property is located on Balboa Island. There are approximately 1,330 residential parcels in the R-BI zone on Balboa Island and Little Balboa Island. Of these parcels, more than 95 percent are of a uniform rectangular shape with a 30-foot width and 85-foot depth, with a resulting area of approximately 2,550 square feet. The subject property is regular in shape with a 60-foot width and 86.35-foot depth, resulting in approximately 5,181 square feet. The size and shape of the existing lot is unique for Balboa Island and not representative of the pattern of development and typical lot configurations in the area. There are fewer than ten (10) parcels within the R-BI zoning district with similar lot widths and areas. The strict application of the 50-foot (interior) and 60-foot (corner) lot width requirements would deny the owner the privilege to have a structure on a 30 foot wide lot, a privilege enjoyed by the vast majority of other property owners in the same R-BI zoning district.
2. Balboa Island consists of mainly small lots of approximately 2,550 square feet, which is compliant with the minimum lot size for residential development of 2,375 square feet. The minimum lot size of 2,375 square feet does not support a minimum lot width of 50 or 60 feet, since the depth of such a lot would only be 47.5 feet or 39.5 feet deep, respectively. A lot that is 50 feet wide and 2,375 square feet would not be consistent with the pattern of development on Balboa Island, yet it would comply with both of the

minimum lot standards. Therefore, relief to the minimum width is necessary to mirror the pattern of development on the island.

3. The property location is on Balboa Island surrounded by other lots that were originally created as part of the Tract, "Map of Resubdivision of Section One of Balboa Island" established two (2) lots of approximately the same size (30.48 feet by 86.54 feet deep) for this site. It was not until 1983, 73 years later, that the two (2) lots were combined under one (1) ownership as Parcel Map No. 83-710. Therefore, the proposed subdivision is intended to return the property to the original configuration established for the island.

Finding:

D. The modification or variance complies with the findings required to approve a coastal development permit in Section 21.52.015(F);

Fact in Support of Finding:

1. A reduction to the minimum lot width requirements for a resubdivision would not impact coastal views or access. Compliance with LCP policies is addressed under Finding A and coastal views and access are addressed under Finding B.

Finding:

E. The modification or variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs;

Fact in Support of Finding:

1. As discussed under Finding B, the proposed variance to the minimum lot width would allow the creation of an interior lot line. The existing boardwalk along the front of the property would not be impacted and any encroachments within the public right of way would be required to comply with City Council Policy L-6. The proposed project would remove non-conforming features within the boardwalk area which would improve public access and views along the boardwalk.

Finding:

F. The modification or variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas;

Fact in Support of Finding:

1. The variance to the minimum lot width requirements would allow the construction of two (2) single family residences (and JADUs) in lieu of a larger structure over the proposed

lot lines. The proposed project would provide additional interior setbacks and would meet current development and design standards. Additional facts are provided under Finding B.

Finding:

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

Fact in Support of Finding:

1. The proposed project and subdivision are located entirely on developed land and would not result in adverse effects to coastal resources. Minor rain runoff would be retained on-site to ensure the project does not impact water quality. Any water not retained would be directed to the City's storm drain system. The project would also implement BMPs during construction to reduce any short term impacts to water quality of the Bay.

Finding:

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

Facts in Support of Finding:

1. Compliance with LCP Policies and the IP is evaluated under Finding A and B.

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 and Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-122, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 21 (Local Coastal Program Implementation Plan).

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF DECEMBER, 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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. *Prior to recordation of Tentative Parcel Map NP2019-004 (County TPM 2018-162), this Coastal Development Permit (CD2020-122) authorizing the TPM shall be approved and effective.*
4. *Prior to issuance of building permits, Tentative Parcel Map No. NP2019-004 (County TPM 2018-162) shall be recorded.*
5. *Prior to issuance of building permits, the project plans shall be updated to reflect that a waterproofing curb or other waterproof material 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 prevent flooding to the structure.*
6. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices 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.
7. Prior to the issuance of a building permit, the property owner shall sign a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgements, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of development. The letter shall be scanned into the plan set prior to building permit issuance.

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8. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A," shall be incorporated into the Building Division and field sets of plans.
 9. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
 10. Prior to issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 11. *Prior to the issuance of a building permit, the applicant shall record a deed restriction that prohibits the use of the JADU for short term lodging (i.e. less than 30 days) and prohibit the sale of the JADU separate from the principal dwelling.*
 12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 13. Coastal Development Permit No. CD2020-122 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.
 14. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit and Tentative Parcel Map.
 15. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
 16. 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.
 17. No demolition or construction materials, equipment debris or waste shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain, or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
 18. 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. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
 19. 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.

20. 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 a 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 from storm drain systems or receiving waters as possible.
21. The applicant is responsible for compliance with the Migratory Bird Treaty Act. 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.
22. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the South Bayfront Waterpointe, LLC. Residence including, but not limited to, Coastal Development Permit No. CD2020-122 (PA2020-208). 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

23. *All existing to remain and proposed encroachments shall comply with applicable City Council Policies including Council Policy L-6.*

RESOLUTION NO. ZA2020-079

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-123, TO ALLOW THE CONSTRUCTION OF A NEW SINGLE-FAMILY RESIDENCE WITH A JUNIOR ACCESSORY DWELLING UNIT AT 402 SOUTH BAY FRONT (PA2020-209)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (“Applicant”), on behalf of South Bayfront Waterpointe, LLC (“Owner”), with respect to property located at 402 South Bay Front, and legally described as Parcel 1 of Parcel Map No. 83-710, requesting approval of a coastal development permit. The proposed legal description of the lot is Parcel 2 of Tentative Parcel Map No. 2018-162.
2. The Applicant proposes to construct a new three (3)-story single-family residence with attached garage consisting of 2,867 square feet on a vacant lot. The proposal includes an attached junior accessory dwelling unit (JADU) of 308 square feet, hardscape, walls, landscaping, and drainage facilities.
3. The subject property is located within the R-BI (Two-Unit Residential, Balboa Island) Zoning District and the General Plan Land Use Element category is RT (Two Unit Residential).
4. The subject property is located within the coastal zone and has a Coastal Land Use Designation of RT-E (Two-Unit Residential) (30.0 - 39.9 DU/AC) and a Coastal Zoning District of RB-I (Two-Unit Residential, Balboa Island).
5. A public hearing was held on February 28, 2019, at which time the Zoning Administrator approved CD2018-073 (PA2018-170) authorizing the demolition of two (2) existing multi-unit structures containing a total of five (5) units. A building permit to demolish the structures was issued on April 4, 2019.
6. A public hearing was held on June 13, 2019, at which time the Zoning Administrator approved NP2019-004 and CD2019-016 (PA2019-063) authorizing a tentative parcel map and CDP for the construction of a single-family residence and parcel map. The parcel map divided the subject lot into two (2) parcels. However, on July 17, 2019 (received July 22, 2019) the CDP was appealed by the Coastal Commission and in January 2020, the applicant withdrew the CDP application. However, the tentative parcel map was approved and became effective on June 28, 2019 (prior to the Coastal Commission’s action). The approved Tentative Parcel Map that became effective June 28, 2019, was not recorded as Coastal Development permit No. CD2019-016 (PA2019-063), which authorized the subdivision as development under Title 21 was withdrawn. Thus, a coastal development

permit has been requested pursuant to PA2020-208 to authorize the previously approved tentative parcel map (NP2019-004) pursuant to Title 21. Additionally, PA2020-208 includes a variance to Title 21 standards to waive the minimum lot width requirements.

7. A public hearing was held online on December 10, 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, Division 6, Chapter 3, of the CEQA 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 up to six (6) dwelling units in urbanized areas. The proposed project consists of the construction of a new 3,118-square-foot single-family residence and attached two (2)-car garage with a junior accessory dwelling unit above.
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.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Coastal Development Permit is for a property within a developed neighborhood, on a lot that is not near any natural landforms including coastal bluffs and is not within the proximity of any environmentally sensitive areas. The property is separated from Newport Bay by a public boardwalk and bulkhead.

-
2. The proposed structure conforms to all applicable development standards including, but not limited to, floor area limitation, setbacks, height, and parking:
 - a. The maximum floor area limitation is 3,188 square feet and the proposed gross floor area is 3,184 square feet. The maximum floor area for the JADU is 500 square feet, and the proposed JADU is 308 square feet.
 - b. The proposed development (including JADU) will provide the required setbacks, which are zero feet along the front property line abutting the boardwalk, 3 feet along the side property lines, and 5 feet along the rear property line abutting the alley.
 - c. The highest flat roof is no more than 24 feet, measured from the finished floor level of 9.00 feet North American Vertical Datum of 1988 (NAVD88) and the highest roof ridge is no more than 29 feet, measured from the finished floor level, which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two (2) vehicles, which complies with the minimum two (2)-space parking requirement for single-family residences with less than 4,000 square feet of livable floor area. No additional parking is required for the JADU.
 3. The project is conditioned to require the recordation of a deed restriction that will prohibit the use of the JADU for short term rentals (i.e. less than 30 days) and will also prohibit the sale of the JADU separate from the principal dwelling.
 4. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and applicable development standards, as the neighborhood is predominantly developed with two (2) and three (3)- story, single-family residences and mixed-use buildings along Agate Avenue.
 5. The property is a bay front lot that is separated from the ocean by a public boardwalk and City-owned concrete bulkhead. A Coastal Hazards and Sea Level Rise report, dated December 5, 2019, was prepared for the project by GeoSoils, Inc. followed by a Coastal Hazards Sea Level Rise Supplement dated September 22, 2020. The Coastal Hazards and Sea Level Rise supplemental report was provided to evaluate coastal hazard implications of the subdivision (NP2019-004).
 6. The current maximum bay water elevation is 7.7 (NAVD88) and would not exceed the existing 8.96 feet (NAVD88) top of bulkhead elevation during high tide or storm events. 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). As conditioned, a waterproofing curb or other waterproof material is required and proposed 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.

7. According to the Coastal Hazards Report and Supplement, future sea level rise of 1.3 or greater would result in overtopping of the existing bulkhead which is at 8.96 feet (NAVD88). Most of the streets on Balboa Island are approximately 6.5 feet (NAVD88), and the flooding of Balboa Island is an existing coastal hazard. The public boardwalk is continuous and provides public access around the entire island. A new or higher shoreline protective device is not currently needed to protect the proposed structure, but it is already necessary to protect the existing buildings, streets, and the boardwalk. The existing bulkhead is owned by the City of Newport Beach and the adjacent property owner is not able to increase the height of the bulkhead as part of this CDP. If the City adopts comprehensive sea level rise adaptation strategies to protect the public streets and public access areas, then the property owner will also be protected as a result. As a condition of approval, the property owner will be required to waive their rights to future protection devices.
8. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). Therefore, the proposed The property owner will be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
9. The finished floor elevation of the first floor of the proposed structure is 9.00 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures.
10. 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.
11. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
12. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff

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

13. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities due to its location and orientation. 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, single-family residence and JADU. The existing and proposed use of the site is residential, and the number of dwelling units on the property would not be increased as part of the project. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand on public access and recreation opportunities.
2. The project is designed and sited so as not to block or impede existing public access opportunities. All proposed encroachments into the public right of way would be required to comply with City Council Policy L-6 which limits the height and extent of encroachments and plantings to limit impacts to views and access. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the public boardwalk along the waterfront.
3. The previously demolished residential structure encroached into the front, rear, and side setbacks, where the proposed single-family residence and JADU would comply with required setbacks, thereby providing additional visual relief from the property lines. The proposed structure would provide setbacks greater than the code requirements, especially within the front setback on the Bay Front where the setback is zero and the structure provides approximately 7 feet. The upper levels are also setback, with open balconies, overhangs, and roof deck. The proposed design also limits size and location of the enclosed third floor area and concentrates the bulk within the center of the site.
4. The property is not located near coastal view roads. The property is located within the viewshed of the Balboa Island Park, which is an identified public beach or park (Coastal

Views Map 4-3). However, the park provides limited views to the subject site from the southwest corner of the park and the existing and proposed uses are residential. The project is also visible from the Ferry, which is not a designated viewpoint but provides views of the harbor and surrounding shoreline. The project would update the existing aesthetics of the lot by providing a new updated building that complies with the City's Design Guidelines. Therefore, the project would not degrade the quality of the coastal zone and associated public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction and Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-123, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 21 (Local Coastal Program Implementation Plan).

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF DECEMBER, 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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. *Prior to recordation of Tentative Parcel Map No. NP2019-004 (County TPM 2018-162), the Coastal Development Permit (CD2020-122) authorizing the TPM shall be approved and effective.*
4. *Prior to issuance of building permits, Tentative Parcel Map No. NP2019-004 (County TPM 2018-162) shall be recorded.*
5. *Prior to issuance of building permits, the project plans shall be updated to reflect that a waterproofing curb or other waterproof material 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 prevent flooding to the structure.*
6. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices 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.
7. Prior to the issuance of a building permit, the property owner shall sign a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgements, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of development. The letter shall be scanned into the plan set prior to building permit issuance.

8. Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A," shall be incorporated into the Building Division and field sets of plans.
9. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
10. Prior to issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
11. *Prior to the issuance of a building permit, the applicant shall record a deed restriction that prohibits the use of the JADU for short term lodging (i.e. less than 30 days) and prohibit the sale of the JADU separate from the principal dwelling.*
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. Coastal Development Permit No. CD2020-123 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.
14. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit and Tentative Parcel Map.
15. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
16. 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.
17. No demolition or construction materials, equipment debris or waste shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain, or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
18. 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. Prior to issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
19. 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.

20. 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 a 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 from storm drain systems or receiving waters as possible.
21. The applicant is responsible for compliance with the Migratory Bird Treaty Act. 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.
22. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the South Bayfront Waterpointe, LLC. Residence including, but not limited to, Coastal Development Permit No. CD2020-123 (PA2020-209). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes

of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

23. *All existing to remain and proposed encroachments shall comply with applicable City Council Policies including Council Policy L-6.*

RESOLUTION NO. ZA2020-080

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-136 AND LIMITED TERM PERMIT NO. XP2020-006 FOR A TEMPORARY MODULAR UNIT TO BE USED AS AN OFFICE FOR GONDOLA TOURS LOCATED AT 200 BAYSIDE DRIVE (PA2020-273)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Gondola Adventures, Inc., with respect to property located at 200 Bayside Drive, and legally described as a portion of Parcel 3 of Parcel Map No. 93-111 requesting approval of a Coastal Development Permit and Limited Term Permit (More than 90 days).
2. The applicant proposes to use an existing temporary modular office for gondola boat tours. The gondola boats will be docked within existing marina slips accessible from the property. The office will be used for general office operations, storage, and setup area for gondola tours. The office will include an attached restroom to serve employees and customers.
3. The subject property is designated Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element and is located within the Back Bay Landing (PC9) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W) and it is located within the Back Bay Landing (PC9) Coastal Zone District.
5. A public hearing was held online on December 10, 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. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The Class 3 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project is temporary and is located on a developed parking lot. Since the project does not involve any alteration of land, it does not have the potential to impact the surrounding environment.

2. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Section 20.52.040 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow operation in a temporary modular office. The office will be used for general office operations, storage, and setup area for gondola cruises. The office will also include a restroom for employees and customers.
2. The subject property contains a variety of marine-related uses, including marina parking, outside storage for recreational vehicles and trailered boats, kayak and paddle board rentals with launch area, a floating fish market, and additional marine-related material storage. The temporary modular office will be used as an office to support the gondola boat tours, which is a coastal-dependent use that is compatible with the other uses within the subject property.
3. The modular office is located within the Back Bay Landing Planned Community Development Plan (PC9) zoning and coastal zoning districts. The purpose of PC9 is to provide a vision for the land uses, set the development standards and design guidelines for the future review and approval of an integrated, mixed-use waterfront development. The proposed modular office is located within the future bayfront promenade identified in PC9 for the future mixed-use development; however, the modular office is temporary in use and is not part of the future development. As conditioned, if the future development is implemented prior to the expiration of the Limited Term Permit, the modular office shall be removed. The modular office does not interfere with nearby uses.

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 modular building is located within Planning Area 1 (Mixed-Use Area) of PC-9, which is approximately 5 acres in size. There is adequate area to accommodate the proposed modular office and existing uses without impacting vehicle circulation. The modular office is located in the rear of the lot, adjacent to the bay and marina access walkway.
2. The placement of the temporary modular office has been conditioned to ensure that it will not negatively impact on-site circulation.
3. The lot is bounded by the Back Bay to the north and west, the Bayside Village mobile home park to the east, and East Coast Highway to the south. The temporary modular office will not affect any of the surrounding uses.
4. The temporary modular office is located on private property.

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 subject lot has a direct driveway approach taken from Bayside Drive. The temporary modular office is located in the rear of the site will not impede access to the existing parking lot. There are no traffic issues anticipated.

Finding:

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

Facts in Support of Finding:

1. The gondola boats will be docked utilizing existing marina slips. Customer and employee parking are provided for within the existing parking lot. Although the operation of the boat tours is expected to increase parking demands at the site, the site provides approximately 141 marked and unmarked parking spaces that are underutilized. The proposed location of the modular office will result in the temporary loss of 7 parking spaces, reducing the total

on-site parking supply to approximately 134 spaces. According to the on-site project manager for the future Back Bay Landing project, approximately 20 vehicles are parked in the main parking area during the daytime on weekdays. Weekend parking increases to approximately 30 vehicles. There are no significant parking increases at the marina during summer months, except during the Fourth of July special event fireworks display at the nearby Newport Dunes. This underutilization of the parking areas has been verified by staff visits on numerous occasions and review of historical aerial photographs of the site. Therefore, the proposed gondola operation and modular office are not anticipated to negatively impact parking availability of the site.

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 temporary modular office is conditioned to comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
2. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The temporary modular office is 720 square feet and includes a restroom.
2. The Mixed-Use Water Related Coastal Land Use is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent, coastal-related uses and visitor-serving uses. The proposed boat tour use is a coastal-dependent use that requires close proximity to the bay.
3. The subject property contains a variety of uses including marina parking, outdoor storage for recreational vehicles and trailered boats, kayak and paddle board rentals with launch area, a floating fish market, and additional marine-related material storage. The proposed boat tour use and temporary modular office is compatible with other marine-related uses. The development to the east is a mobile home park. The bulk and scale of the temporary modular office is compatible with the surrounding development.

4. As conditioned, all outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
5. 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.
6. Landscaping is not proposed as a part of this project.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. An initial evaluation was conducted by staff to determine if the proposed modular office has the potential to impact the public view of the bay. A visual impact analysis was conducted from multiple public view vantage points facing the bay. Views of the bay are visible from East Coast Highway along the western portion of the subject property. The subject property is lower in topography than East Coast Highway, and the proposed modular office is a single-story structure approximately 10 feet in height. The portion of East Coast Highway abutting the eastern portion of the subject lot, as well as Bayside Drive, do not provide existing views of the bay.
3. Based on the visual impact analysis, the modular office will not impact public access or public views of the bay, as it is located a northern corner of the lot that is outside of the viewshed of the bay as seen from East Coast Highway.
4. The proposed boat tour use will provide additional recreation options to residents and visitors and encourage access to and usage of the bay.
5. The modular office is located within a future pedestrian easement, which is a feature of a future project on the subject property. The modular building has been conditioned to be removed upon recordation of the pedestrian easement. Also, as conditioned, if the future

development is implemented prior to the expiration of the Limited Term Permit, the modular office shall be removed.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves CD2020-136 and XP2020-006, 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 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 10TH DAY OF DECEMBER, 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. 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 Use Permit.
4. Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 shall not be effective until after January 11, 2021.
6. The applicant shall obtain permits from the Fire Department for a fire suppression system within 60 days of the approval of the coastal development permit and limited term permit.
7. This Coastal Development Permit and Limited Term Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Coastal Development Permit and Limited Term Permit or the processing of a new Coastal Development Permit and Limited Term Permit.
9. 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.
10. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit and Limited Term Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development

Permit and Limited Term Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. This Limited Term Permit shall expire twelve (12) months from the issued date of building occupancy, unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. 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.
12. Upon recordation of a future pedestrian easement in compliance with PC-9, the temporary trailer shall be removed.
13. The hours of operation for the modular office and the gondola boat tours shall be limited to 10:00 a.m. through 10:00 p.m., daily, except that the gondola boat tours shall be permitted to operate to later hours with the prior approval of the Planning Division for up to six (6) special occasions per calendar year. Examples of special occasions include New Years, Valentine's Day, Mother's Day, etc.
14. A Marine Activities Permit (MAP) shall be obtained prior to the operation of boat tours.
15. In the event that the future Back Bay Landing mixed-use development is implemented prior to the expiration of this Limited Term Permit, the modular building shall be removed.
16. Prior to the issuance of a building permit, approval shall be obtained from the Building Division for the use of a pump out and holding station instead of connecting to a sewer system.
17. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
18. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
19. 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.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the

specified time periods unless the ambient noise level is higher:

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

21. 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.
22. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
23. No outside paging system shall be utilized in conjunction with this establishment.
24. All trash shall be stored within the building or within dumpsters stored in the on-site trash enclosures or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
25. The applicant is required to obtain all applicable permits from the City’s Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
26. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
27. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
28. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

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29. The applicant shall ensure that the pump-out restroom is regularly serviced and maintained to control odors.
 30. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
 31. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 32. 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.
 33. 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 Gondola Adventures including, but not limited to, Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 (PA2020-273). 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. ZA2020-081

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-139 TO REMOVE 821 EXISTING SINGLE-SPACE PARKING METERS AND INSTALL 58 NEW PARKING PAY STATIONS AND RELATED SIGNAGE CITYWIDE (PA2020-317)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by the City of Newport Beach, with respect to City property located on various public rights-of-way Citywide, requesting approval of a coastal development permit.
2. The proposed project is for the removal of 821 existing single-space parking meters and the installation of 58 new multi-space pay stations. Proposed pay stations utilize pay-by-plate systems that has been previously used in existing pay stations in the City. Proposed pay stations are solar-powered, mounted with anchor bolts to cement, and do not require electrical connections. The proposed project does not include any changes to the current parking rate or number of parking spaces provided.
3. Signage is proposed to direct the public to the pay stations. A total of 801 signs are proposed Citywide which notify the public that payment is required and provides information regarding the various methods of payment options. Where feasible, signage is mounted double-sided and on existing sign poles, light poles, and utility poles. Remaining signage is proposed to be mounted on new poles.
4. The project is located in various General Plan designations and Zoning Districts. The project is consistent with the General Plan, which sets goals for the City to provide an adequate supply of convenient parking, as well as an efficiently operated parking system.
5. The existing meters that are to be replaced by pay stations are located within the coastal zone. The project is located in various Coastal Land Use Plan designations and Coastal Zoning Districts.
6. A public hearing was held online on December 10, 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. 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 15302, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 2 (Replacement or Reconstruction), because it has no potential to have a significant effect on the environment.
2. Class 2 exempts the replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. The proposed project consists of the replacement of existing parking meters with parking pay stations and does not involve expansion of capacity.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. Coastal Land Use Plan (CLUP) Policy 3.2.2-1 requires Newport Beach (“City”) to “continue to protect public coastal access recreational opportunities through the provision of adequate support facilities and services.” The City provides abundant coastal access and recreational opportunities. The opportunities in the Coastal Zone include the beach, public parks, and commercial areas adjacent to beaches and the bay. For public access to these opportunities, public parking is provided as a support facility throughout the City through metered on-street parking and off-street parking lots. The proposed project does not alter the supply of existing public parking and provides an update to existing support facilities and services.
2. CLUP Policy 3.2.2-3 directs the City to “maintain the ability to distribute, remove and relocate support facilities and services in coastal areas in response to changes in demographics and recreational interests while continuing to provide comparable facilities and levels of service.” The City currently has 821 existing meters that serve public parking for both on-street spaces and off-street parking lots. However, the existing meters are aging and operate with antiquated technology which will no longer be supported by the manufacturer as of January 1, 2021. The existing meters receive coins and credit cards as forms of payment and are not compatible with cellular phone applications. The proposed project removes the existing meters and replaces them with 58 new pay stations. The proposed pay stations provide enhanced service to the public, as they are compatible with various cellular phone applications, provide text message reminders when parking is expiring, print receipts, and take multiple forms of payment, including credit cards, cash, and coins.

3. CLUP Policy 3.2.2-4 directs the City to “develop parking management programs for coastal zone areas to minimize parking use conflicts between commercial uses, residential uses, and coastal zone visitors during peak summer months.” The coastal areas of the City attract a significant number of visitors, especially during peak summer months. Many of these coastal areas in the City contain a mixture of commercial and residential uses. The replacement of existing meters with updated pay stations facilitates efficient turnover of public parking and minimizes parking conflicts in these areas. All pay stations will be strategically located in areas which are convenient for patrons as they park and proceed to their desired destination.
4. The City is proposing to install various types of signage which notifies the public that payment is required, directs the public to the nearest pay station, and provides instructions on payment options. Where feasible, signage is to be mounted double-sided. Signs are proposed to be mounted on existing sign poles, new sign poles, existing light poles, and existing utility poles. The three sign types are small in scale, as they range from 1.5 square feet to 3 square feet. As required, signs mounted on poles in a pedestrian walkway will be a minimum of 7 feet above the ground to avoid pedestrian interference.

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. Pay stations are proposed to be located in various areas which are 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 821 existing single-space parking meters with 58 pay stations. 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, each pay station is designed and sited so as not to block or impede existing public access opportunities.
2. While the proposed project does not propose or contemplate any parking rate or hourly operation changes, existing parking rates and hours conform to the Coastal Commission Guidance Memorandum issued on October 29, 1993, which limits the increases of fees for public parking. In addition, lower-cost and free access to the coast is available to the public through alternative means.
 - a. The Balboa Peninsula Trolley is a free public transit system provided by the City. The trolley operates in the summer months, generally between Memorial Day and Labor Day, and runs between 10:00 a.m. to 9:30 p.m. Free parking is available to visitors at a parking lot located between Avon Street and West Coast Highway,

where the trolley stops and transports visitors to 22 total stops along the peninsula.

- b. The Orange County Transportation Authority (OCTA) provides multiple bus routes which originate from outside of Newport Beach and stops along the coast within the City. These routes originate from cities which include Santa Ana, Brea, Yorba Linda, and Tustin. OCTA also provides a variety of low-cost bus passes beyond senior and disabled passes, including passes for college students, a “Sun and Fun” discounted summer pass, and a “Youth Summer Pass” for students between the ages of 6 and 18 for unlimited rides in the summer.
3. Existing vertical and lateral access to the bay and beach will remain available in all locations where parking meters are replaced. The proposed pay stations are limited in footprint as each unit is approximately 5.5 feet high and 1.67 square feet in area. Pay stations are to be installed on public rights-of-way throughout the City. The project does not include any features that would obstruct access along these routes.

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 15302 under Class 2 (Replacement or Reconstruction) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-139, 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 Local Coastal Program and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF DECEMBER, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved paystation plans dated with the date of this approval (except as modified by applicable conditions of approval).
2. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands or public beaches.
4. Additional pay stations may be installed to increase accessibility and usage if determined needed by the City.
5. 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.
6. 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.
7. 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.

8. 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.
9. 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.
10. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
13. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Prior to 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.
15. This Coastal Development Permit No. CD2020-139 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.

RESOLUTION NO. ZA2020-082

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, ADOPTING MITITGATED NEGATIVE DECLARATION ADDENDUM NO. ND2019-002 AND APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-143 FOR THE DEMOLITION OF AN EXISTING SURFACE PARKING LOT AND THE CONSTRUCTION OF A NEW PEDESTRIAN/BICYCLE BRIDGE, SURFACE PARKING LOT, AND IMPROVEMENTS TO OPEN SPACE AND GRANTING RELIEF FROM THE DEVELOPMENT STANDARDS OF THE LOCAL COASTAL PROGRAM IMPLEMENTATION PLAN AT SUPERIOR AVENUE NORTH OF THE WEST COAST HIGHWAY INTERSECTION AND THE NORTHEAST CORNER OF INTERSECTION, BOUNDED BY WEST COAST HIGHWAY, SUPERIOR AVENUE, HOAG LOWER CAMPUS AND SUNSET VIEW PARK (PA2019-014)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by The City of Newport Beach (“Applicant”) with respect to property located at the northeast corner of Superior Avenue and West Coast Highway, APN’s 424-041-13, 424-041-11, 424-041-12, 424-042-02, 424-042-03, and 424-041-09, requesting approval of a coastal development permit.
2. The Applicant proposes a coastal development permit to allow the demolition of the existing surface parking lot and the construction of a new 130-space surface parking lot, with pedestrian/bicycle concrete bridge over Superior Avenue. The proposed bridge includes a staircase from the bridge down to the corner of Superior Avenue and West Coast Highway, and open space improvements to upper Sunset View Park. The project would include earthwork, grading, retaining walls, and landscaping improvements. The project includes retaining walls that exceed the 8-foot maximum height permitted by Newport Beach Municipal Code (NBMC) Title 21 (Local Coastal Program Implementation Plan). As such, the project includes a request for relief from the Title 21 development standard, pursuant to Section 21.52.090.
3. The project site is partially located on Sunset Ridge Park, which is within the California Coastal Commission’s permit jurisdiction and will therefore require a separate coastal development permit for the portions of the project site outside the City’s permit authority. This coastal development permit is intended to cover the portions of the project within the City’s permit authority as designated in the Local Coastal Program (Title 21 of the Newport Beach Municipal Code).
4. Except where the bridge crosses Superior Avenue, the subject property is located within the PR (Parks and Recreation) Zoning District and the General Plan Land Use Element category is PR (Parks and Recreation).

5. The subject property is located within the coastal zone. Except where the bridge crosses Superior Avenue, the Coastal Land Use Plan category is PR (Parks and Recreation) and the Coastal Zoning District is PR (Parks and Recreation).
6. A public hearing was held online on December 10, 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. 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. On November 19, 2019, the City Council adopted Resolution No. 2019-102 adopting Mitigated Negative Declaration No. ND2019-002 for the Superior Avenue Pedestrian/Bicycle Bridge and Parking Lot Project, approving a Mitigation Monitoring and Reporting Program (“MMRP”) that was prepared in compliance with the California Environmental Quality Act (“CEQA”) set forth in the California Public Resources Code Section 21000 *et seq.* and its implementing State regulations set forth in the California Code of Regulations Title 14, Division 6, Chapter 3 (“CEQA Guidelines”) and City Council Policy K-3. The project reviewed under the Mitigated Negative Declaration (MND) included a new pedestrian/bicycle steel truss or concrete case-in place bridge approximately 260 feet long and 14 feet wide that crosses Superior Avenue, a new larger parking lot with approximately 128 parking spaces, a staircase from the bridge down to the corner of Superior Avenue and West Coast Highway, extension of upper Sunset View Park (open space, earthwork, grading, and retaining walls, landscape and irrigation improvements, and other amenities including a drop-off area, bicycle fix-it station, and a drinking water fountain. The project also proposed possible extension of an access road through the parking lot to connect to the Hoag Memorial Hospital property (“Original Project”).
2. The current project proposes minor changes to the 2019 Project, including an updated bridge design. The new bridge design is a single span concrete arch bridge that is approximately 200 feet long and 18 feet wide. The bridge will not require any mid-span piles to support the bridge. Due to the differences between the Original Project and the proposed Superior Avenue Pedestrian and Bicycle Bridge and Parking Lot project, an addendum to the MND was prepared pursuant to Section 15162 (Subsequent EIRs and Negative Declarations) and 15164 (Addendum to an EIR or Negative Declaration) of the State CEQA Guidelines. The City retained Chambers Group to prepare the addendum because they prepared the MND for the Original Project. The MND addendum also considers cumulative projects including the potential future project to widen West Coast Highway and construct a second bridge. The MND addendum does not identify any component of the project that would result in a “potentially significant impact” on the environment per CEQA guidelines.
3. The addendum to the MND, including the MMRP, is hereby recommended for adoption by the Zoning Administrator. The addendum to the MND and all materials, which

constitute the record upon which this decision is based, are on file with the Planning Division, City Hall, 100 Civic Center Drive, Newport Beach, California.

SECTION 3. REQUIRED FINDINGS.

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:

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

Facts in Support of Finding:

1. The neighborhood is developed with a variety of uses, including residential uses to the north and southwest, commercial uses to the south, Sunset Ridge Park to the west, and Hoag Hospital to the west. The proposed design, bulk, and scale of the development is consistent with and complementary to the existing, varied neighborhood pattern of development.
2. The property is in an area known for the potential for seismic activity. All projects are required to comply with the California Building Code (CBC) and the Building Division standards and policies. Geotechnical investigations are required to be reviewed and approved prior to the issuance of a building permit. 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, consistent with the requirements of NBMC 21.30.015(E) - (Development in Shoreline Hazardous Areas).
3. The project site is located adjacent to Sunset View Park and Sunset Ridge Park, both identified as coastal viewpoints by the Local Coastal Program maps. The bridge is designed to preserve the view lines and minimize the potential for visual obstruction. The proposed bridge does not block the public views of the coast from the higher elevations of either park. A visual impact analysis and aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant. In addition, the project includes expanded view opportunities from the plaza and benches at the elevated parking lot and from the bridge itself.
4. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), because the development contains more than seventy-five (75) percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP/WQMP) was prepared by Dokken Engineering, dated September 2020. The final WQHP/WQMP will be required to be reviewed and approved by the City's Engineer Geologist prior to building permit issuance. The WQHP/WQMP includes a polluted runoff and hydrologic site characterization, treatment control, best management practices (BMPs), use of a low-impact development approach and bioretention system to retain the design storm runoff volume on-site, and

documentation of the expected effectiveness of the proposed BMPs. Construction plans will be required to comply with the approved WQHP/WQMP prior to the issuance of building permits.

5. The project is located less than 100 feet from a wetland along West Coast Highway. NBMC 21.30B.040.C allows wetland buffers of less than 100 feet when a 100-foot buffer is not possible due to site-specific constraints; and the proposed buffer would be protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and integrity of disturbance. The project area is confined in area and size, and a 100-foot buffer around the wetland could not be accommodated without eliminating essential components of the project. Further, the wetlands are currently surrounded by a variety of on-going disturbances, including landscape maintenance, pedestrians and vehicular traffic. The wetlands are small in size (approximately 0.03 acre) and are isolated from any adjacent habitat having substantive ecological value as a resource. An analysis of potential impacts to the wetland is included in the MND, and specific mitigation measures have been included to reduce the potentially significant adverse effects to a less than significant level. Therefore, the project will have no detrimental effect on wetland coastal resources.
6. A portion of the project is within Sunset Ridge Park which is within the California Coastal Commission's permit jurisdiction. This part of the project includes a bridge abutment that is greater than 100 feet from a wetland along Superior Avenue, consistent with the wetland buffer requirement in NBMC 21.30B.040.C. A planting area is proposed adjacent to the bridge abutment, which may encroach into the 100-foot wetland buffer area. A qualified biologist will be consulted prior to any planting within the buffer area to ensure consistency with the requirements of NBMC 21.30B.040.C.
7. In accordance with NBMC 21.30.060.D.16, structures owned, operated, or occupied by the City or other governmental agency to provide a governmental service to the public may be allowed to exceed the height limit subject to the approval of a coastal development permit in compliance with Chapter 21.52 (Coastal Development Review Procedures) where the increase in height is necessary to accommodate design features required for the facility to function. In this case, the height of the bridge is necessary to provide adequate vertical clearance to Superior Avenue and public sidewalks, to provide a bridge with an ADA-compliant walking surface, and to provide necessary guardrails and projectile barriers.

Finding:

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

Facts in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline. The site does not currently provide vertical or lateral access to the waterfront, nor would it provide access under the proposed conditions. Vertical access to the beach is available

via street ends throughout the Balboa Peninsula, and the project will not affect the public's ability to gain access to, use, and/or view the coast.

2. The development includes the demolition of an existing 64-space flat surface public parking lot and the construction of a new 130-space surface public parking lot. The result is a net gain of 66 parking spaces, thereby increasing public access to the coast by providing additional parking opportunities in the area. Further, the open space area of Sunset View Park will be expanded as a part of the project, providing additional public space to passively recreate and additional coastal view opportunities.
3. The project site is located adjacent to Sunset View Park and Sunset Ridge Park, both identified as coastal viewpoints by the Local Coastal Program maps. The bridge is designed to be mindful of view lines and the potential for visual obstruction. Aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant.

Finding:

C. The Zoning Administrator has considered the following:

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

Facts in Support of Finding:

1. With exception of the variance to the retaining wall height, the proposed development complies with and is consistent with the certified Local Coastal Program (LCP). See Facts in Support of Findings A and B above.
2. The project includes retaining walls up to 25 feet in height. These retaining walls are necessary to support the new surface parking lot, which also serves to support the public plaza and viewing benches adjacent to the parking lot, to achieve sufficient vertical clearance under the proposed bridge, and to support the expanded passive open space at Sunset View Park. Retaining walls less than 25 feet would not support the proposed project.
3. The project is designed to preserve the existing view lines and minimize the potential for visual obstruction. The bridge does not block the public coastal views from either Sunset Ridge Park or Sunset View Park. Aesthetics were reviewed as a part of the environmental review, and impacts were found to be less than significant. Therefore, the project will have no detrimental effect on coastal view resources.

Finding:

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

Facts in Support of Finding:

1. The project site features unique topography. The west side of Superior Avenue features an upward sloping grade that follows the incline of Superior Avenue, with a 64-space flat surface parking lot and a dirt mound near the northernmost edge of the project site. Significant earthwork and grading is necessary to create a project site suitable for the larger, 130-space surface parking lot. Further, the grade of the site must be raised to allow the construction of the pedestrian/bicycle bridge between the subject site and the higher grade of Sunset Ridge Park. The passive recreation area at Sunset View Park is at a higher elevation than most of the project site, and the extension of this open space area, offering public coastal views, requires raising the grade around the existing dirt mound, and retaining walls to support this feature.
2. The strict application of the retaining wall height limit results in physical hardships inconsistent with the intent and purpose of the LCP and would restrict the ability to construct a pedestrian/bicycle bridge across Superior Avenue, by preventing the bridge to be built with appropriate slope for pedestrians and bicyclists crossing the bridge. The taller retaining walls have no detrimental effect on environmental or visual resources that the development standards are intended to protect. Section 21.52.090(B)(1) (Relief from Implementation Plan Development Standards) of the NBMC specifically allows modification or waiver of development standards through approval of a coastal development for projects that will not have an adverse effect on coastal resources.
3. The PR Coastal Zoning District is intended to provide for areas appropriate for land used or proposed for active public or private recreational use. Allowed uses include both active and passive parks. Both Sunset Ridge Park and Sunset View Park are consistent with this designation and providing safe parking and access to both parks is an essential park amenity that this project helps to achieve.

Finding:

E. The variance complies with the findings required to approve a coastal development permit in Section 21.52.015(F) (Coastal Development Permits – Findings and Decisions).

Facts in Support of Finding:

1. The project conforms to applicable sections of the LCP in that public coastal views and public access will not be negatively affected. The project includes the adopting of an addendum to the previously adopted Mitigated Negative Declaration, and specific mitigation

measures have been included to reduce the potentially significant adverse effects to a less than significant level. Therefore, the project will have no detrimental effect on coastal resources.

2. The project site is not located between the nearest public road and the sea or shoreline. The project site is located north of West Coast Highway, approximately 1,000 feet from the coast.
3. All Facts in Support of Findings A and B above are hereby incorporated by reference.

Finding:

F. The variance will not result in development that blocks or significantly impedes public access to and along the sea or shoreline and to coastal parks, trails, or coastal bluffs.

Facts in Support of Finding:

1. The property is located north of West Coast Highway, approximately 1,000 feet from the coast. Direct coastal access is currently provided and will continue to be provided by street ends throughout the Balboa Peninsula. The project includes the demolition of an existing 64-space flat surface parking lot and the construction of a new 130-space surface parking lot. This larger public parking area will provide increased public access to the nearby coast as well as to both Sunset Ridge Park and Sunset View. There are no public trails or coastal bluffs located on the project site. The purpose of this project is to enhance public access to Sunset Ridge Park, provide additional public view opportunities, and increase public parking and access to parks and beaches.
2. Facts in Support of Finding B.1 and B.2 are hereby incorporated by reference.

Finding:

G. The variance will not result in development that blocks or significantly impairs public views to and along the sea or shoreline or to coastal bluffs and other scenic coastal areas.

Fact in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.

Finding:

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

Fact in Support of Finding:

1. The project site currently contains a surface parking lot, developed landscaping, a dirt mound, and some undeveloped open space. An analysis of potential impacts to biological resources is included in the MND, and specific mitigation measures have been included to reduce the potentially significant adverse effects to a less than significant level. Therefore, the project will have no detrimental effect on coastal resources.
2. Facts in Support of Finding A.5 and A.6 are hereby incorporated by reference.
3. A view simulation analyzing the potential cumulative view impacts of a potential future City project to widen West Coast Highway and construct a second pedestrian bridge is included in the Addendum to the MND and concludes that the second bridge, based on location, is not anticipated to block views of the ocean individually or cumulatively.

Finding:

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

Facts in Support of Finding:

1. Approval of the coastal development permit will not be contrary to the applicable policies of the City's Coastal Land Use Plan intended to protect coastal resources. Policy 4.4.1-6 of the Local Coastal Program states that public coastal views must be protected from several roadway segments in the City, including the segment of Superior Avenue abutting the project, which is designated as a Coastal View Road. The increased height of the retaining walls supporting the project does not impede views of the coast from Superior Avenue.
2. Approval of the coastal development permit will not be contrary to Policies 4.4.1-2 and 4.4.1-7 of the Local Coastal Program, which state that new development, including landscaping, should be designed and sited so as to minimize visual impacts to public coastal views, and to frame and accent public coastal views. The retaining walls and the development they support will include drought-tolerant landscaping which will maintain the aesthetic character of the area.
3. The granting of the coastal development permit to allow the increased retaining wall height is consistent with NBMC Section 21.52.090 (Relief from Implementation Plan Development Standards), which provides for relief from development standards for projects that will have no detrimental effect on environmental or visual coastal resources.

In accordance with Section 21.30.060(C)(3) (Required Findings) of the NBMC for increased height limits, the base height limit for nonresidential and mixed-use structures with flat roofs is twenty-six (26) feet and the base height limit for structures with sloped roofs is thirty-one (31) feet. The height of a nonresidential structure within the Shoreline Height Limit Area may be increased up to a maximum of thirty-five (35) feet with a flat roof or forty (40) feet with approval

of a Coastal Development Permit. In this case, the Applicant requests that height be increased to a maximum of 32 feet for the bridge, which is regulated as a flat structure. In accordance with Section 21.30.060(C)(3) (Height Limits and Exceptions - Required Findings) of the NBMC for increased height limits, the following findings and facts in support of such findings are set forth:

Finding:

J. The project is sited and designed to protect views to and along the ocean and scenic coastal areas; and

Fact in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.

Finding:

K. The project is sited and designed to minimize visual impacts and be visually compatible with the character of surrounding areas; and

Facts in Support of Finding:

1. Facts in Support of Findings A.3 and B.3 are hereby incorporated by reference.
2. The bridge design is a single span concrete arch, which is specifically designed to complement and be compatible with the surrounding development. The single span eliminates the need for a mid-span support, which otherwise would have required a support in a median of Superior Avenue. The bridge is further designed without any roof or shade cover, which keeps the profile of the structure low in this scenic area.
3. The Project does not affect existing public views and does not detract from the character of the area. The overall project height is below the maximum permitted with approval of a coastal development permit. The proposed bridge spans across Superior Avenue, which slopes steeply up to the north. Properties to the north of the project site are developed with finished grades higher than the top of the proposed bridge, and the bridge will not appear out of scale or character with surrounding development. The bridge also serves to visually connect the parking for Sunset Ridge Park, enhancing the public access to the park.
4. The retaining walls facing West Coast Highway will be visually softened with vines and trees to vertically break up the massing of the walls.

Finding:

L. Where feasible, the project will restore and enhance visual quality in visually degraded areas.

Fact in Support of Finding:

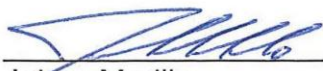
The property is currently developed as a surface parking lot with developed landscaping, a dirt mound, and some undeveloped open space. The proposed project has been designed to harmonize with and enhance the surrounding development by maintaining a low profile, avoiding a midspan support for the bridge, and including drought tolerant landscaping throughout the project.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby adopts the Mitigated Negative Declaration Addendum No. ND2019-002 (SCH No. 2019099074), as depicted in Exhibit "A," which consists of the MND Addendum, Appendices, and Adopted MND.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2020-143, 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 10th DAY OF DECEMBER, 2020.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan and elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans shall require separate review by the Planning Division and may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. 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.
4. 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.
5. 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.
6. 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.

-
7. 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.
 8. 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.
 9. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 10. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
 11. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
 12. Prior to 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.
 13. 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.
 14. Coastal Development Permit No. CD2020-143 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.
 15. The Applicant shall comply with all mitigation measures identified in the Mitigation Monitoring and Reporting Program (MMRP).



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915
949-644-3200
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COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Subject: 4M Dental Implant Center (PA2020-345)
▪ Staff Approval No. SA2020-005

Site Location 20331 Irvine Avenue, Suite E7 (2nd Floor)

Applicant 4M Dental Implant Center

Legal Description Parcel 1 of Parcel Map No. 89-128 in the unincorporated territory of Orange County, a portion of Lot 21, Tract No. 456, Recorded in Book 17, Page 9 of Miscellaneous Maps in the office of the County Recorder of said County

On **December 11, 2020**, the Community Development Director approved Staff Approval No. SA2020-005 to allow a dental implant center (medical office) within the upstairs suite (Suite E7) of an existing commercial office space previously authorized for medical office use by Conditional Use Permit No. UP2019-012 (PA2019-025). The Director found the modification to be minor and in substantial conformance with UP2019-012. This approval is based on the following findings and subject to the conditions discussed in this action letter.

LAND USE AND ZONING

- **Zone:** Santa Ana Heights Specific Plan – Professional and Administrative Office (SP-7)
- **General Plan:** General Commercial Office (CO-G)

PROJECT SUMMARY

The proposed medical office (dental implant center) will occupy Suite E7 of an existing office building. The medical office is proposing to operate between 8:00 a.m. to 5:00 p.m., Monday through Friday. The applicant is anticipating to see approximately 15 patients per day, by appointment only. There will be no overnight patient stays. The office will be staffed with approximately six employees at any given time. The existing Conditional Use Permit authorized a medical office (plastic surgery center) within both the downstairs and upstairs office condominiums (Suites E6 and E7). The approved plastic surgery center use has identical hours of operation and similar number of expected patient visits per day.

I. BACKGROUND

On May 9, 2019, the Planning Commission approved Conditional Use Permit No. UP2019-012 (PA2019-025) to allow a plastic surgery center (medical office) to occupy

two medical office condominiums (Suites E6 and E7) within the Jetty office plaza. Subsequent to the authorization of the medical office use, building permits were obtained for the tenant improvement of the downstairs suite (Suite E6). At the time of permit issuance, the tenant's plans indicated that the upstairs suite (Suite E7) was to remain vacant.

II. PROPOSED CHANGES

Conditional Use Permit No. UP2019-012 (PA2019-025) authorized one single tenant, a plastic surgery center, to utilize both Suites E6 and E7. The applicant is proposing to operate a dental implant center in Suite E7. The plastic surgery center will remain on the first floor as a separate use.

III. FINDINGS

Pursuant to Newport Beach Municipal Code Section 20.54.070, the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, or refer the requested change to the Zoning Administrator, without a public hearing, and waive the requirement for a new use permit application. The approval and waiver of a new use permit application is based on the following findings and facts in support of the findings.

Finding:

A. The changes are consistent with all applicable provisions of this Zoning Code.

Facts in Support of Finding:

1. The subject site is located within the Santa Ana Heights Specific Plan within the Professional and Administrative Office District (PA). Medical office is not listed as an allowed use; however, a conditional use permit may be approved for an unlisted use if it is determined to be consistent with the intent and purpose of the Professional and Administrative Office District. In this case, the Planning Commission approved Conditional Use Permit No. UP2019-012, which authorized a medical office in both Suites E6 and E7. The proposed dental implant center is a medical office with similar operational characteristics to the plastic surgery center.
2. The Professional and Administrative Office District is established to provide for the development and maintenance of an optimal environment for moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located on heavily traveled streets or adjacent to commercial or industrial uses, and may be used to buffer residential uses. The proposed dental implant center would occupy an existing office space and would operate similar to a traditional professional office use with hours from approximately 8:00 a.m. to 5:00 p.m., Monday through Friday ("Hours of Operation"). The use would be of moderate intensity, pursuant to the

intent of the district. The proposed suite is located at the rear of the property away from the entry and business park frontage.

Finding:

B. The changes do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.

Fact in Support of Finding:

1. The previously approved Conditional Use Permit was determined to be categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities), which exempts minor alterations to existing facilities involving negligible expansion of use beyond that existing at the time of the lead agency's determination. The proposed dental implant center will be located within an existing development with only minor alterations required to accommodate the use.

Finding:

C. The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.

Facts in Support of Finding:

1. The proposed dental implant center has hours of operation of 8:00 a.m. to 5:00 p.m., Monday to Friday. The hours of operation are identical to the approved plastic surgery center which was reviewed by the Planning Commission.
2. The applicant shall pay all applicable Fair Share Traffic Fees to convert Suite E7 from office to medical office in accordance to Newport Beach Municipal Code Chapter 15.38.

Finding:

D. The changes do not result in an expansion or change in operational characteristics of the use.

Fact in Support of Finding:

1. The proposed dental implant center is consistent with the previously approved plastic surgery use as both uses see patients on an appointment-only basis and have a relatively low patient flow. The dental implant center will have no overnight patient stays, as conditioned in Conditional Use Permit No. UP2019-012. Therefore, the proposed changes do not result in an expansion or change in operational characteristics of the use.

IV. DETERMINATION

This Staff Approval has been reviewed and a determination has been made that the proposed change from a plastic surgery center to a dental implant center is minor and in substantial conformance with the original approval.

V. CONDITIONS

All previous conditions of approval of Conditional Use Permit No. UP2019-012 (PA2019-025) shall remain in full force and effect as stated in Planning Commission Resolution No. PC2019-010 (Attachment No. CD 2).

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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:



David S. Lee, Associate Planner

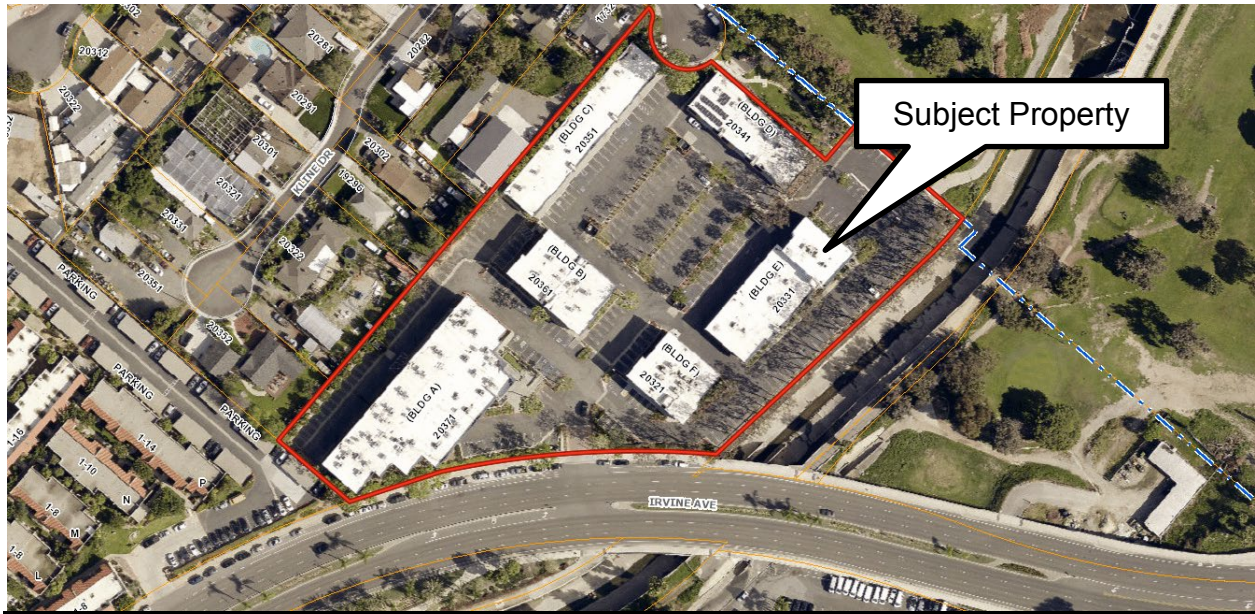
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Attachments: CD 1 Vicinity Map
CD 2 Planning Commission Resolution No. PC2020-010
CD 3 Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2020-005
PA2020-345

20331 Irvine Avenue, Suite E7

Attachment No. CD 2

Planning Commission Resolution No.
PC2019-010

RESOLUTION NO. PC2019-010

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING CONDITIONAL USE PERMIT UP2019-012 FOR A PLASTIC SURGERY CENTER LOCATED AT 20331 IRVINE AVENUE, UNITS E6 AND E7 (PA2019-025)

THE PLANNING COMMISSION OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Anton Aesthetics ("Applicant"), with respect to property located at 20331 Irvine Avenue, Units E6 and E7 and legally described as Parcel 1 of Parcel Map No 89-128 in the unincorporated territory of Orange County a portion of Lot 21, Tract No. 456, Recorded in Book 17, Page 9 of Miscellaneous Maps in the office of the County Recorder of said county (the "Property"), requesting approval of a conditional use permit.
2. The Applicant proposes to operate a plastic surgery center within an existing business and professional office park. The tenant space would occupy approximately 6,108 square feet of gross floor area within the larger complex and the plastic surgery center would operate from approximately 8:00 a.m. to 5:00 p.m., Monday through Friday (the "Project").
3. The Property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan (SP-7) Professional and Administrative Office Zoning District.
4. The Property is not located within the coastal zone.
5. A public hearing was held on May 9, 2019, in the Council Chambers at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code ("NBMC"). Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. The Project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3.
2. The Class 1 exemption authorizes the operation, repair, maintenance and minor alterations of existing buildings. The proposed uses will be located within an existing building within a fully developed office park with only minor interior alterations required to accommodate the new use.

SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 20.52.020(F) (Conditional Use Permits and Minor Use Permits), the following findings and facts in support of the findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use Element designates the site for commercial uses under CO-G (General Commercial Office). This designation is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. A plastic surgery center is a medical office use and is consistent with the CO-G General Plan designation. The proposed medical office use would be part of an existing office park (the "Jetty") and would be consistent with the associated land use designation and General Plan.
2. The Property is located within the Santa Ana Heights Specific Plan within the Professional and Administrative Office District (PA). Medical offices are not listed as an allowed use; however, pursuant to NBMC Section 20.90.130(B)(2) a conditional use permit may be approved by the Planning Commission for an unlisted use if it is determined to be consistent with the intent and purpose of the Professional and Administrative Office District.
3. The Professional Administrative Office District is established to provide for the development and maintenance of an optimal environment for moderate intensity professional and administrative office uses and related uses on sites with large landscaped open spaces and off-street parking facilities. This district is intended to be located on heavily traveled streets or adjacent to commercial or industrial uses, and may be used to buffer residential uses. The proposed plastic surgery center would occupy an existing office space and would operate similar to other business or professional office uses with similar hours from approximately 8:00 a.m. to 5:00 p.m., Monday through Friday ("Hours of Operation"). The use would be of moderate intensity, pursuant to the intent of the district. The proposed suite is located at the rear of the property away from the entry and business park frontage. There would be no increased noise, odor or hazards attributable to the use compared to business or professional office uses.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of the Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. Facts in support of Finding A are hereby incorporated by reference.

2. Tenant improvements to the existing tenant space will take place in the interior and require the issuance of applicable building permits. No changes to the existing gross floor area or building footprint are proposed.
3. Pursuant to Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), the first 50,000 square feet of an office park requires one parking space per 250 square feet of net floor area, and the next 75,000 square feet of office requires one space per 300 square feet of net floor area. Medical offices, if not more than 20 percent of the total net floor area of the office park, share identical parking requirements. The existing office park has a net floor area of 80,289 square feet. The proposed surgery center, combined with a previously approved chiropractor office, totals 7,196 square feet of net floor area, which is approximately 9 percent net floor area of the entire office park. Therefore, the proposed surgery center shares an identical parking requirement as an office use and no additional parking is required for the change in use.
4. The existing office park, including existing and proposed medical offices, contains 77,354 square feet of office net floor area, which requires 292 parking spaces. Additionally, there is an existing 2,935-square-foot learning center within the office park, which was approved by a use permit (UP2015-015). The use requires 27 spaces based on the requirement of one space per peak staff. However, 18 required spaces were waived as part of the approval. Parking is sufficient for the entire office park, as 301 spaces are required and 301 spaces are provided.

Finding:

- C. *The design, location, size, operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The Project is a medical office use within the Jetty. The Jetty contains a mix of professional and administrative offices, support uses, as well as a tutoring center. As conditioned, it is expected to operate in a manner compatible with other tenants and land uses in the building and office park.
2. The existing office park abuts residential uses to the north and west. However, the subject building (Building E) is located at the southeastern portion of the property that abuts the neighboring golf course and Irvine Avenue. Furthermore, the surgery center would utilize standard business hours and conduct business on an appointment-only basis. Therefore, the plastic surgery center is anticipated to operate similar to a typical office space and would not impact residential uses to the north and west.
3. Adequate parking exists to support the Project as discussed in Finding B.3 and B.4.

Finding:

D. The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.

Facts in Support of Finding:

1. The proposed tenant improvements would be limited to the inside of the existing office building and would not affect pedestrian circulation, parking spaces, or access to existing tenants.
2. The Project is a plastic surgery center within an existing office park, the Jetty. The Jetty contains a mix of professional and administrative offices, support uses, and a tutoring center. A different medical office was previously reviewed and approved by the Planning Commission in 2017. Based on the hours of operation and nature of the small-scale plastic surgery center use, this Project is anticipated to operate similarly to adjacent uses and is therefore physically suitable for the office park.
3. Emergency access to and through the Jetty is currently provided from Irvine Avenue. No changes to emergency access are proposed and on-site circulation would not change.
4. The Jetty, including the subject tenant space, is adequately served by public services and utilities.
5. The design of the improvements will comply with all Building, Public Works, and Fire Codes, and plans will be reviewed prior to the issuance of building permits.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. A plastic surgery center within an existing office park would operate similarly to a typical professional business office. The use is not anticipated to generate increased noise, dust, odor, traffic, vibration, lighting or other potential nuisances as compared to other typical office uses and would not constitute an increased nuisance or hazard to the public.
2. The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses and City as a whole are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable

conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots, during business hours, if directly related to the patrons of the business.

3. The hours of operation are compatible with other offices in the Jetty.
4. There would be no increased noise, order or hazards attributable to the use compared to other business or professional office uses that would otherwise be allowed in the PA zoning district.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Planning Commission of the City of Newport Beach hereby approves Conditional Use Permit No. UP2019-012 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 is filed with the City Clerk in accordance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 9TH DAY OF MAY, 2019.

AYES: Weigand, Lowrey, Koetting, Kramer

NOES:

ABSTAIN:

ABSENT: Zak, Ellmore, Kleiman

BY:


Peter Zak, Chairman

BY:

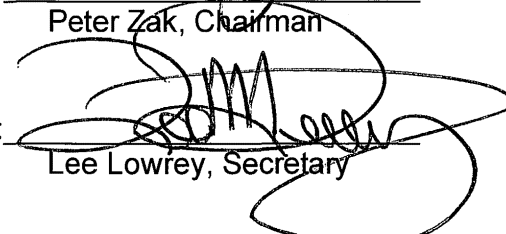

Lee Lowrey, Secretary

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

PLANNING

1. The Project shall be in substantial conformance with the approved site plan and floor plans 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 Use Permit.
4. Prior to the issuance of building permits, applicable Fair Share Traffic Fees shall be paid to convert the space from office to medical office in accordance with NBMC Chapter 15.38. The Applicant shall be credited for the existing office use, and shall pay the net difference for the medical office use.
5. This Use Permit may be modified or revoked by the Planning Commission should they determine that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
6. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new use permit.
7. This Use Permit allows an outpatient plastic surgery center. No overnight patient stays shall be permitted.
8. 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.
9. 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.
10. Should the Property be sold or otherwise come under different ownership, either the current business owner, property owner or the leasing agent shall notify any future

owners or assignees of the conditions of this approval.

11. Construction activities shall comply with NBMC Section 10.28.040, 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.
12. No outside paging system shall be utilized in conjunction with this establishment.
13. All trash shall be stored within the building or within dumpsters stored in the existing trash enclosure.
14. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of NBMC Title 14, including all future amendments (including Water Quality-related requirements).
15. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

16. 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 Use Permit.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of NBMC Title 20.
19. 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

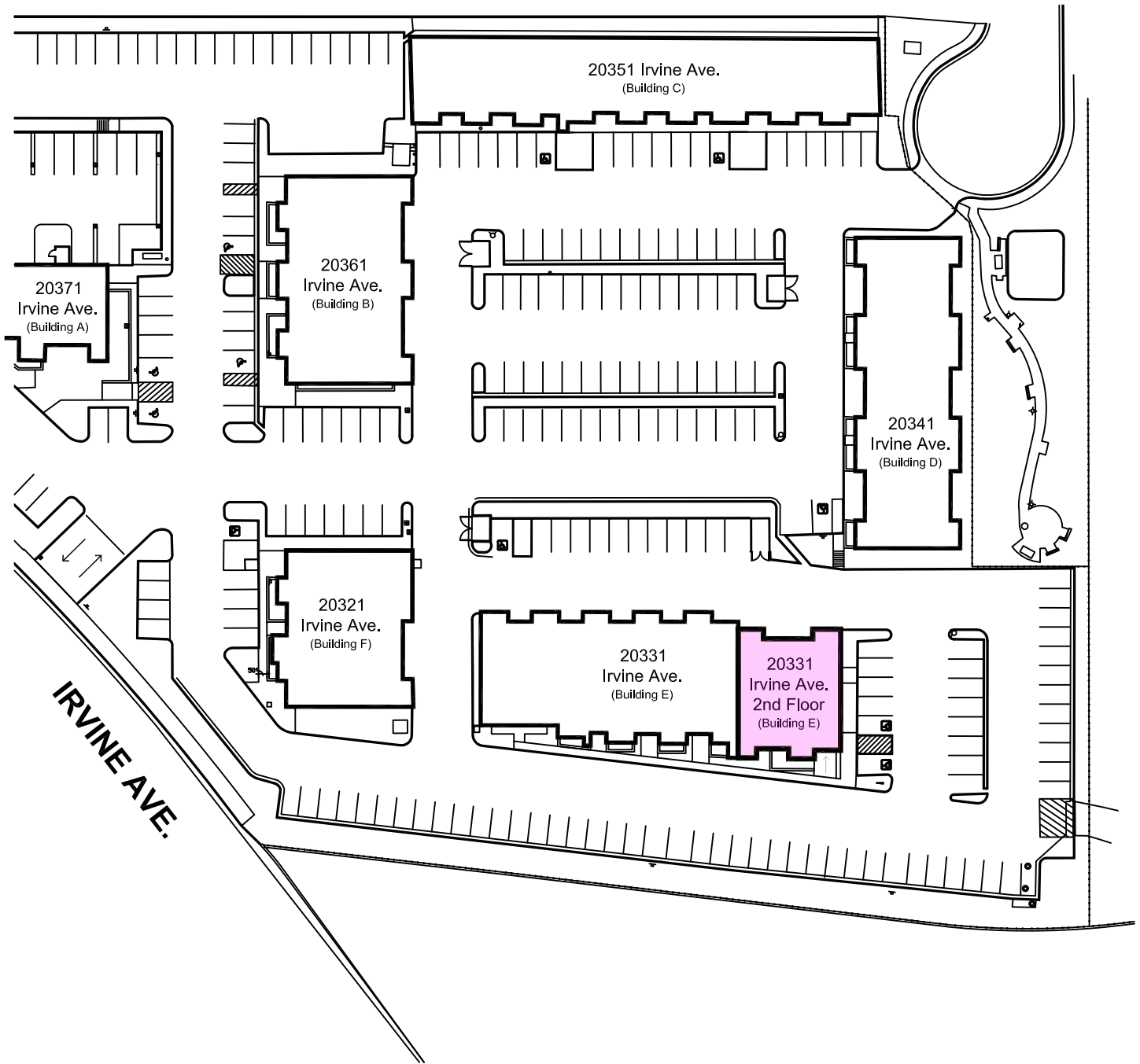
action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Anton Aesthetics including, but not limited to, Conditional Use Permit No. UP2019-012 (PA2019-025). 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

20. 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.

Attachment No. CD 3

Plans



Existing Site Plan

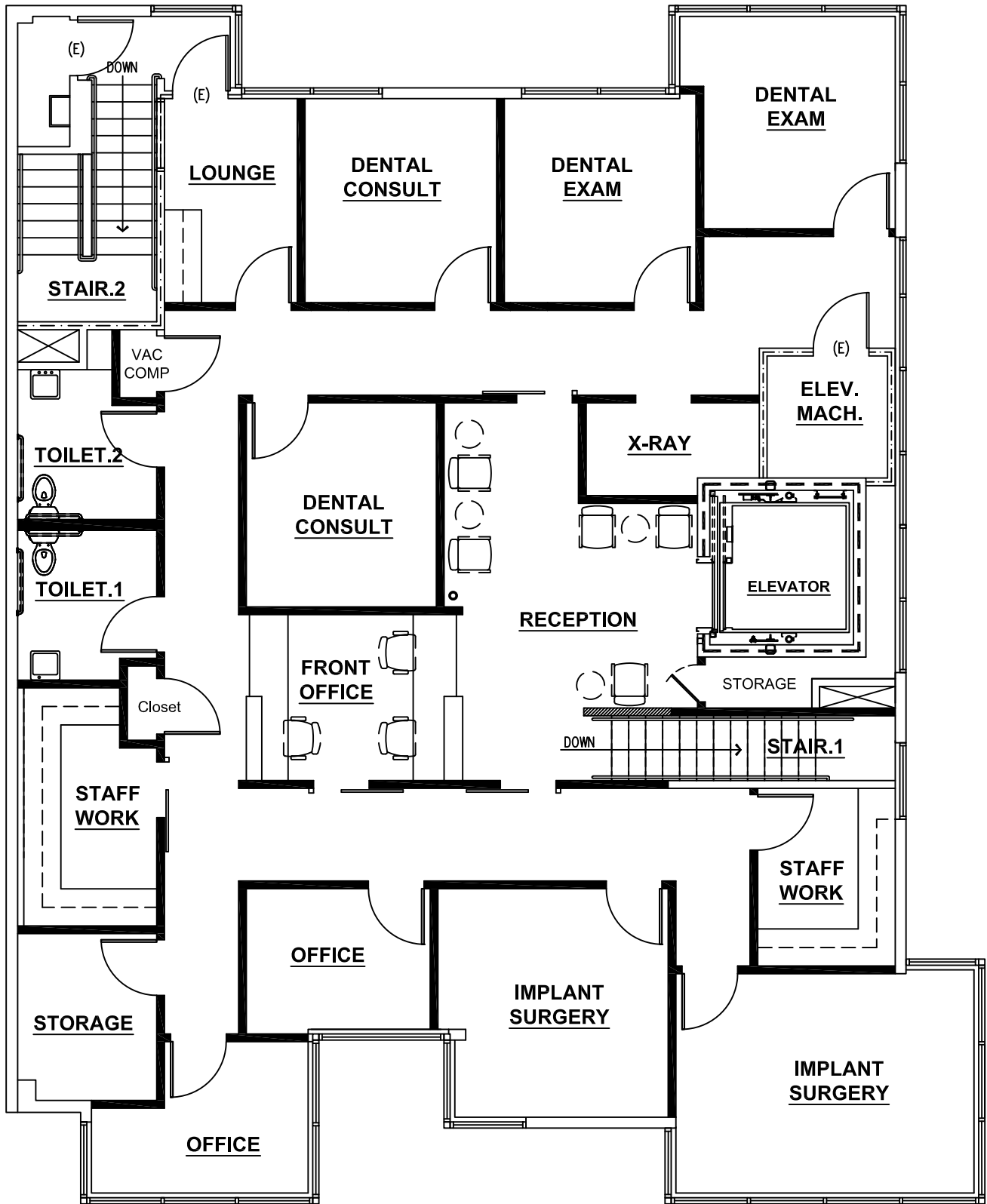
Sean Mohtashami, D.D.S. Tenant Improvement

4M Dental Implant Center at The Jetty

20331 Irvine Ave., Newport Beach, CA

October 27, 2020





Preliminary Floor Plan

Sean Mohtashami, D.D.S. Tenant Improvement

4M Dental Implant Center at The Jetty

20331 Irvine Ave., Suite E7 (2nd Flr.), Newport Beach, CA

November 2, 2020

