



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 May 28, 2021.

ZONING ADMINISTRATOR ACTIONS MAY 27, 2021

- Item 1: Rye Goods Bakery and Deli Minor Use Permit No. UP2021-012 (PA2021-063)
Site Address: 3418 Via Lido
Action: Approved by Resolution No. ZA2021-026 Council District 1
- Item 2: Sommerdyke and Meacham Residential Condominium Conversion No. CC2021-002 (PA2021-060)
Site Address: 720 and 720 ½ Iris Avenue
Action: Approved by Resolution No. ZA2021-027 Council District 6
- Item 3: Antoci Residence Coastal Development Permit No. CD2020-152 (PA2020-323)
Site Address: 2286 Channel Road
Action: Approved by Resolution No. ZA2021-028 Council District 1
- Item 4: Kruse Residence Coastal Development Permit No. CD2021-013 (PA2021-069)
Site Address: 630 Via Lido Nord
Action: Approved by Resolution No. ZA2021-029 Council District 1

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

RESOLUTION NO. ZA2021-026

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MINOR USE PERMIT NO. UP2021-012 TO ADD A TYPE 41 ALCOHOLIC BEVERAGE CONTROL LICENSE (ON-SALE BEER AND WINE) AND A TYPE 20 (OFF-SALE BEER AND WINE) ALCOHOLIC BEVERAGE CONTROL LICENSE TO AN EXISTING FOOD SERVICE EATING AND DRINKING ESTABLISHMENT (RYE GOODS BAKERY AND DELI) LOCATED AT 3418 VIA LIDO (PA2021-063)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Rye, llc. with respect to property located at 3418 Via Lido, and legally described as Lot 6 in Tract 1235 requesting approval of a minor use permit.
2. The applicant proposes to allow an existing food service, eating and drinking establishment (Rye Goods Bakery and Deli) to add a Type 41 Alcoholic Beverage Control (ABC) License (On-Sale Beer and Wine) and a Type 20 (Off Sale Beer and Wine) ABC License. The request does not include any physical changes to the existing establishment. The hours of operation will remain 7:00 a.m. to 10:00 p.m., daily. This Minor Use Permit will supersede Minor Use Permit No. UP2015-045 (PA2015-203).
3. The subject property is designated Mixed Use Water 2 (MU-W2) by the General Plan Land Use Element and is located within the Mixed-Use Water (MU-W2) 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 Mixed-Use Water (MU-W2) Coastal Zone District. The project is exempt from the requirements of a Coastal Development Permit (CDP) as no additional parking is required, and the proposed alcohol sales is intended as a convenience for the food service establishment that already exists within the building. The ABC licenses will add a service to the existing menu for on-site and take-out orders and does not modify or increase the operational capacity of the establishment. Therefore, the proposed changes are not considered an intensification of use.
5. A public hearing was held online on May 27, 2021, 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 15301 under Class 1 (Existing Facilities) 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 proposed project involves no physical improvements with no expansion in floor area or change in parking requirements.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The crime rate in the subject reporting district (RD 15) as well as two (2) of the three (3) adjacent RDs (Reporting Districts) are over the City average. RD 15 contains the large commercial shopping center known as The Landing at 32nd Street and Balboa Boulevard and much of Via Lido and Balboa Boulevard. The purpose of the Zoning of these beach areas is to provide various commercial and retail uses to support the surrounding residential area as well as the surrounding tourist destinations. Therefore, these beach areas with a higher concentration of commercial land uses tend to have a higher crime rate than adjacent RDs.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent RDs. Additionally, this is the beach area that is considered one of the most significant tourist areas of the City.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

1. The subject property is located in a mixed-use district where residential development is permitted above the first floor. However, Lido Marina Village does not include any residential development and there are no plans to add mixed-use.
2. The nearest place of recreation, the beach, is located approximately one half (0.5) mile to the west. The nearest church, St. James Episcopal Church, is located approximately 800 feet to the south of the Property along Via Lido, and substantially separated from the Property by commercial properties and the Lido Villas development. The nearest school, Newport Elementary School, is located approximately one (1) mile to the southeast along West Balboa Boulevard. The Property is not located in close proximity to a daycare center. The Project is otherwise surrounded by other commercial retail and office uses.
3. Balboa Peninsula is generally characterized by a high number of visitors, in which commercial and residential zoning districts are located in close proximity to one another. This location in Lido Marina Village has greater distance from sensitive land uses than other commercial areas

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. The Lido Marina Village was designed to accommodate multiple restaurants therefore the existing Rye Goods Bakery and Deli is located in close proximity to other food service establishments. This includes Nobu, a food service with late hours, outdoor dining, and a Type 47 (On Sale General) ABC license located at 3450 Via Oporto; Zinque, a food service with late hours, outdoor dining and a Type 41 (On Sale Beer and Wine); Circle Hook, a food service with outdoor dining, a Type 41 (On Sale Beer and Wine) ABC license and no late hours located at 3432 Via Oporto; and Lido Bottle Works, a food service with late hours, outdoor dinner, a Type 41 ABC license, and a Type 20 (Off Sale Beer and Wine) ABC license. The RD 15 statistics indicate an overconcentration of ABC licenses within this statistical area.
2. The per capita ratio of on-sale retail is one (1) license for every 69 residents and is higher than the adjacent districts and the average ratio for Orange County. The per capita ratio of off-sale retail is one (1) license for every 572 residents and is higher than the adjacent districts and the average ratio for Orange County. This is due to the higher concentration of commercial land uses, alcohol licenses attributed to adjacent marina operations, lower number of residential properties, and high number of restaurants in Lido Marina Village, Cannery Village, and McFadden Square. While the proposed restaurant is located in close proximity to other establishments, the location in Lido Marina Village, an established commercial

area, together with the proposed operational characteristics would make the service of alcoholic beverages appropriate. The Police Department does not anticipate any increase in crime or alcohol-related incidents with the approval of this application subject to the proposed conditions of approval.

3. Due to the type and operation of the restaurant which is conditioned to close at 10:00 p.m. with limited net public areas, and the incorporation of additional conditions to prevent the restaurant from operating as a bar or lounge, the proximity to other establishments does not appear to create foreseeable concern.

v. *Whether or not the proposed amendment will resolve any current objectionable conditions*

1. The existing commercial building has been occupied by a food service, eating, and drinking establishment since 2016. No objectionable conditions are presently occurring at the restaurant site.
2. The Project has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the establishment. The off-sale of alcohol is intended for the convenience of the to-go goods that are often purchased. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol-related impacts. All employees serving alcohol will be required to complete a certified training program in responsible methods and skills for selling alcoholic beverages, as required by the State of California.
3. Offering alcohol service will complement the food service and provide a convenience to customers. The Police Department has no objections to the operation given the proposed hours of operation, license type, and location of the use. The resolution includes conditions of approval to limit objectionable conditions related to noise and trash from the establishment.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a minor use permit are set forth:

Finding

- B. *The use is consistent with the General Plan and any applicable specific plan;*

Facts in Support of Finding

1. The General Plan designates the site as Mixed-Use Water 2 (MU-W2) which applies to areas where it is the intent to establish waterfront locations in which marine-related uses are intermixed with commercial service use and residential.
2. The proposed alcohol services are consistent with the MU-W2 designation as it is intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach.
3. Several mixed-use structures including visitor serving commercial such as eating and drinking establishments with alcohol service uses exist nearby and are complementary to the surrounding commercial and residential uses.
4. The subject property is not part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The property is designated by the Zoning Code as Mixed-Use Water (MU-W2), which applies to areas where it is the intent for waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The proposed addition of alcohol service to the existing food service establishment requires a minor use permit pursuant to Table 2-8 of Newport Beach Municipal Code Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements). The property is located approximately 370 feet from a residential zoning district.
2. The existing food service establishment operates under existing Use Permit No. UP2015-045 (PA2015-203). There are conditions limiting the net public area of the existing interior (514 square feet) and outdoor dining area (250 square feet), as well as the hours of operation (7:00 a.m. to 10:00 p.m., daily). These conditions will remain with the new use permit and the net public areas and hours of operation will remain unchanged.
3. Conditional Use Permit No. UP2014-014 (PA2014-002) approved the Lido Marina Village Parking Management Plan and established a maximum square footage limit on food service, eating and drinking uses within Lido Marina Village to ensure the adequacy of parking resources. Conditional Use Permit No. UP2017-019 (PA2017-135) authorized changes to the Parking Management Plan (and superseded the prior Use Permit), including additional off-site patron parking and changes to the off-site employee parking shuttle service. The approved Parking Management Plan requires

off-site parking with shuttle service during peak occupancy periods from 4:00 p.m. through 10:00 p.m., Friday and Saturday, and during other periods that generate parking demands where occupancy within the parking structure is expected to exceed 85 percent. Off-site valet service is also available for customers at 3700 Newport Boulevard after 7:00 p.m. Therefore, sufficient parking is provided with the implementation of the Parking Management Plan approved with UP2014-014 and amended under UP2017-019, provided the maximum square footage limit on food service uses is not exceeded. In this case, Rye Goods Bakery and Deli operates under existing Use Permit No. UP2015-045 and the existing floor area is already accounted for within the food service limit of the Parking Management Plan with no increase in floor area proposed. The proposed addition of alcohol service does not change the parking requirements.

4. As conditioned, the proposed project will comply with Zoning Code standards for eating and drinking establishments.

Finding

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

Facts in Support of Finding

1. The existing establishment consists of 514 square feet of interior net public area, a 250-square-foot outdoor dining area, kitchen facilities, indoor storage and washing areas, a restroom, dedicated wash down area that will drain directly into the sewer system, and a covered trash enclosure with gate. No physical changes are proposed.
2. The hours operation of the existing food service will remain restricted to the hours between 7:00 a.m. and 10:00 p.m., daily. These hours are consistent with the business hours of other restaurants and uses in the commercial area.
3. The subject property is located in a relatively dense commercial village area with multiple uses within a short distance of each other. Lido Marina Village is conducive to a significant amount of walk-in patrons. No on-site parking is available for the subject property but adequate parking is provided in the Lido Marina Village parking structure and adjacent streets (Central Avenue and Via Oporto) as authorized under the Parking Management Plan approved by Use Permit Nos. UP2014-014 (PA2014-002) and UP2017-019 (PA2017-135).
4. The surrounding area contains various, retail and visitor serving commercial uses including restaurants with alcohol service. Adding the alcohol service to the existing food service is compatible with the existing and permitted uses within the area.
5. The operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol-related

impacts. The project has been conditioned to ensure that the business remains a restaurant and does not become a bar or tavern. Additionally, dancing or live entertainment is not permitted.

6. The existing common trash storage area located approximately 150 feet to the west is adequate to accommodate the proposed food service use and is conveniently located where materials can be deposited and collected, and does not impede with parking.

Finding

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

Facts in Support of Finding

1. The existing food service establishment provides adequate public and emergency vehicle access, public services, and utilities.
2. The site is accessible from both Via Lido and a private alley at the rear.

Finding

- F. 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, and safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The limited hours reduce impacts to surrounding land uses and sufficient parking is available for the existing food service establishment. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment serves the surrounding community in a commercial area designed for such uses. The additional service of alcohol is provided as a public convenience and is not uncommon in establishments of this type. Additionally, the service of alcohol will provide an economic opportunity for the property owner to maintain a successful business that is compatible with the surrounding community.

3. All owners, managers, and employees selling or serving alcohol will be required to complete a Responsible Beverage Service Certification Program.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-012 subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Zoning Administrator Resolution No. ZA2016-005, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 27th DAY OF MAY, 2021.



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. 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. This Minor Use Permit may be modified or revoked by the Zoning Administrator if it is determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new minor use permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
7. The hours of operation shall be limited between 7:00 a.m. and 10:00 p.m., daily.
8. The "net public area" of the establishment shall not exceed 514 square feet for the interior of the subject facility.
9. The accessory outdoor dining shall be used only in conjunction with the related adjacent establishment. The outdoor dining patio shall be limited to 250 square feet in area.
10. Fences, walls, or similar barriers shall serve only to define the outdoor dining area, shall meet the minimum requirements required by the Alcoholic Beverage Control License, and shall not constitute a permanent all-weather enclosure. The barrier shall match the approved use permit plan, shall be in-line with the existing outdoor dining area and shall not obstruct the adjacent public walkway.

11. All proposed signs shall be in conformance with any approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 of the Newport Beach Municipal Code.
12. All lighting shall conform with the standards of NBMC Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
13. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

14. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays and Holidays.
15. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
16. No outside paging system shall be utilized in conjunction with this establishment.
17. All trash shall be stored within the existing common trash enclosure or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
18. 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.
19. 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.

20. 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).
21. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
22. 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.
23. 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.
24. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
25. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Rye Goods Bakery and Deli including, but not limited to, Minor Use Permit No. UP2021-012 (PA2021-063). 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.

Police Department

26. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
27. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
28. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
29. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
30. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
31. There shall be no live entertainment or dancing allowed on the premises.
32. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
33. There shall be no reduced-price alcoholic beverage promotions after 9:00 p.m.
34. Food service from the regular menu shall be made available to patrons until closing.
35. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
36. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.

37. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
38. Strict adherence to maximum occupancy limits is required.
39. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
40. 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, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
41. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.

RESOLUTION NO. ZA2021-027

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING CONDOMINIUM CONVERSION NO. CC2021-002, WHICH AMENDS CONDOMINIUM CONVERSION NO. CC2005-009, TO ALLOW TWO (2)-UNIT RESIDENTIAL CONDOMINIUMS LOCATED AT 720 AND 720 ½ IRIS AVENUE (PA2021-060)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Richart Designs, with respect to property located at 720 and 720 ½ Iris Avenue, and legally described as lot 22 of Block 736 of Corona Del Mar requesting approval of Condominium Conversion permit to modify the conditions of approval of the existing Condominium Conversion No. CC2005-009.
2. The applicant requests that condition number 9 of the existing condominium conversion approval be amended from requiring a four (4)-car garage to requiring two (2) parking spaces per unit (one (1) garage and one (1) covered space per unit) in order to allow the condominium owners to convert their four (4)-car garage into a two (2)-car garage with carport.
3. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held online on May 27, 2021, 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. 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 amendment will allow the condominium owners to make minor alternations to an existing structure and convert a four (4)-car garage to a two (2)-car garage with carport.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Condominium Conversion is consistent with the legislative intent of NBMC Title 20 (Planning and Zoning) and is approved based on the following findings per 19.64.070 (Standards for Condominium Conversions) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. Off-Street Parking Requirements, residential conversions, the minimum number and the design and location of off-street parking spaces shall be provided in conformance with the provisions of the off-street parking regulations contained within Title 20 of this Code, in effect at the time of approval of the conversion.

Facts in Support of Finding:

1. The existing two (2)-unit condominium provides a total of four (4) garage parking spaces which satisfies the current NBMC off-street parking requirement for two (2)-unit residences.
2. The proposed improvements to convert the four (4)-car garage into a two (2)-car garage with carport will comply with the current development standards of the R2 zoning district including minimum interior dimensions.

Finding:

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

Fact in Support of Finding:

1. The requirement was satisfied in 2005 when a permit for a description change from duplex to condominium was issued by the Building Division.

Finding:

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

Fact in Support of Finding:

1. See Fact in Support of Finding B.1.

Finding:

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

Fact in Support of Finding:

1. See Fact in Support of Finding B.1.

Finding:

E. The electrical service connection shall comply with the requirements of Chapter 15.32.

Fact in Support of Finding:

1. See Fact in Support of Finding B.1.

Finding:

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

Fact in Support of Finding:

1. See Fact in Support of Finding B.1.

Finding:

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

Fact in Support of Finding:

1. See Fact in Support of Finding B.1.

Finding:

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

Fact in Support of Finding:

1. The subject property is zoned Two-Unit Residential (R-2) and has a General Plan Land Use Designation of Two Unit Residential (RT). The R-2 Zoning District is intended to

provide areas appropriate for development of a maximum of two (2) residential dwelling units on a single legal lot.

Finding:

- 1. The establishment, maintenance or operation of the use or building applied for shall not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City. (Ord. 2013-11 §§ 196, 197, 2013; Ord. 2005-19 § 1, 2005; Ord. 2005-12 § 1, 2005; Ord. 2001-18 § 2 (Exh. ZA-1) (part), 2001)*

Fact in Support of Finding:

1. See Fact in Support of Finding H.1.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Condominium Conversion No. CC2021-002, 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 is filed with the City Clerk in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Condominium Conversion No. CC2005-009, which upon vesting of the rights authorized by this Condominium Conversion, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 27 DAY OF MAY 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL****Planning Division**

1. Each unit shall be provided parking in conformance with the residential provisions of Title 20 of the NBMC.
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. This Condominium Conversion 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.
5. 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.
6. 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.
7. Construction activities shall comply with Section 10.28.040 (Construction Activity - Noise Regulations) 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 Saturdays, Sundays or Holidays.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
9. 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 Sommerdyke and Meacham Residential Condominium Conversion including, but not limited to, Condominium Conversion No. CC2021-002 (PA2021-060). 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. ZA2021-028

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2020-152 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE WITH ROOF DECK AND ATTACHED THREE (3)-CAR GARAGE LOCATED AT 2286 CHANNEL ROAD (PA2020-323)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeff Logan (Applicant), with respect to property located at 2286 Channel Road and legally described as Lot 4 of Tract 518, requesting approval of a coastal development permit (CDP).
2. The Applicant proposes a coastal development permit (CDP) to allow the demolition of an existing single-family residence and the construction of a new, approximately 3,897-square-foot, two (2)-story residence with a roof deck including an attached three (3)-car garage. The project also includes additional appurtenances such as landscaping, hardscaping, drainage, a barbecue counter, and a reinforced bulkhead cap for protection against coastal hazards. 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-C (Single Unit Residential Detached – 10.0 – 19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held online on May 27, 2021, 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 two (2)-story, 3,897-square-foot residence with a roof deck and an attached 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 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 5,220 square feet and the proposed floor area is 3,897 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the property line abutting the Newport Bay, 3 feet along each side property line and 0 feet along the property line abutting Channel Road.
 - c. The highest roof elevation is a maximum of 24 feet from the established grade (10.63 feet based on the North American Vertical Datum [NAVD88]), which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of three (3) vehicles, complying with the minimum two (2)-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and consistent with applicable development standards.

3. The development fronts the Newport Bay and is protected by a bulkhead. A Bulkhead Conditions Report was prepared by William Simpson and Associates, Inc. on November 2, 2020. The report concluded that while the bulkhead is in good condition with minor, repairable cracks, it should be reinforced through the installation of new tiebacks. Once the bulkhead is reinforced in accordance with the report, 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 and Associates, Inc. on May 6, 2021. The report states that the current maximum bay water elevation is 7.7 feet based on the North American Vertical Datum of 1988 (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.
5. The project has been conditioned to raise the bulkhead to a minimum elevation of 10.9 feet NAVD88, with a design for adaptability elevation of 14.4 feet NAVD88, in compliance with the City of Newport Beach Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.
6. The finish floor elevation of the proposed single-family residence is at an elevation of 12.00 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard.
7. 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.
8. 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.

9. 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.
10. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. The WQHP was prepared by JT Consulting Engineers dated May 4, 2021 and 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 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. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
11. 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.
12. The project site is not located adjacent to a coastal view road, public viewpoint, public park, beach, or public accessway, as identified in the Coastal Land Use Plan. The nearest public viewpoint is West Jetty View Park, which is located approximately 150 feet to the south of the project site. Views from West Jetty View Park are primarily toward the water to the east and south, and the project does not affect views from West Jetty View Park. The project may be located within the viewshed of other distant public viewing areas, and the east elevation of the project is visible from the water. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

1. The project site is located on the Balboa Peninsula between the nearest public road and the sea. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a

reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.

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. CD2020-152, 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 27TH DAY OF MAY, 2021.



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 capped to a minimum elevation of 10.90 feet (NAVD88), with a design adaptability of 14.4 feet NAVD88, in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.*
3. *The existing seawall shall be reinforced in accordance with the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by William Simpson and Associates, Inc, dated May 6, 2021.*
4. *Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
5. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.*
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. *This Coastal Development Permit does not authorize any development seaward of the private property.*

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

17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
18. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
20. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
21. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
22. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
23. Prior to the issuance of building permits, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
24. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
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. CD2020-152 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 Antoci Residence, including, but not limited to, Coastal Development Permit No. CD2020-152 (PA2020-323). 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. ZA2021-029

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-013 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 630 VIA LIDO NORD (PA2021-069)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, Architect, with respect to property located at 630 Via Lido Nord, requesting approval of a coastal development permit. The lot at 630 Via Lido Nord is legally described as Lot 61 of Tract 907.
2. The applicant proposes to demolish an existing single-family residence and construct a 2,630-square-foot, two (2)-story, single-family residence with an attached 566-square-foot two (2)-car garage. The design includes landscape, hardscape, and subsurface drainage facilities all within the confines of the private property. The project complies with all 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-C (Single Unit Residential Detached) – (10.0 – 19.9 DU/AC) and is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held online on May 27, 2021, 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, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three (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 2,629.59-square-foot single-family residence and attached 566-square-foot two (2)-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, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,952 square feet and the proposed floor area is 3,196 square feet.
 - b. The proposed development provides the minimum required setbacks, which are four (4) feet along the front property line abutting Via Lido Nord, 3 feet along each side property line, and 10 feet along the second front property line abutting the harbor.
 - c. The highest guardrail is less than 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes garage parking for a total of two (2) vehicles, complying with the minimum two (2)-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
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.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated May 27, 2021, for the project. The maximum bay water elevation

is 7.7 feet (NAVD 88) and may exceed the current 12.50 feet (NAVD 88) top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a three (3)-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 10.7 feet (NAVD 88) - (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The existing bulkhead is proposed to be capped up to 12.50 feet and capable to be raised up to 14.4 feet (NAVD 88) to provide adequate flood protection as anticipated for the likely range of sea level rise for the 75-year life of the structure.

4. The project has been conditioned to raise the bulkhead to a minimum elevation of 10.9 feet NAVD88, with a design for adaptability elevation of 14.4 feet NAVD88, in compliance with the City of Newport Beach Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.
5. Once the existing seawall/bulkhead is reinforced/capped per the report's recommendations, flooding, wave run-up, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. The report concludes that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach.
6. The finished floor elevation of the proposed single-family residence is at a minimum elevation of 12.83 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazards Report concludes that the bay water elevation (anticipated 10.9 feet NAVD 88) will not exceed the proposed finished floor elevation around the single-family residence at 12.83 feet (NAVD 88) for the anticipated 75-year life of the structure. The patio finished surface is at 12.50 feet (NAVD 88) which will serve as adequate elevation for flood protection of the site and surrounding properties.
7. 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) – (Waterfront - Development Standards). Both requirements are included as conditions of approval that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively.
8. 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 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.

9. The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the Newport Beach Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
10. Pursuant to Newport Beach Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQMP) is required. A preliminary WQMP has been prepared for the project by RCE Consultants, Inc dated March 15, 2021. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an Low Impact Development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQMP prior to building permit issuance.
11. 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 runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system
12. Proposed landscaping complies with Implementation Plan 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.
13. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is Kings Road Park, which is about 2,039 feet away from the project site. The nearest coastal view corridor is West Coast Highway, which is about 1,173 feet away from the project site. As currently developed, the existing property and other residences along Via Lido Nord are located within the view shed of the park. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

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. Vertical access to the bay and beach is available at a City owned parcel along Via Lido Nord at the northerly street end of Via Quito. Lateral access is available on the beach to the south west and where Via Koron ends. The project does not include any features that would obstruct access along these routes.
2. The project site is located between the nearest public road and the sea or shoreline. 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 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.
3. The project is designed and sited so as not block or impede existing public access opportunities. Coastal access is currently provided and will continue to be provided by street ends throughout the neighborhood with access to the water.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-013 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 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 27TH DAY OF MAY, 2021.



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 of building permits for the new residence, the existing seawall shall be capped to a minimum elevation of 10.90 feet (NAVD88), with a design adaptability of 14.4 feet NAVD88, in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities and in accordance with the recommendations provided in the report prepared by PMA Consulting, Inc. on May 27, 2021, and as identified in the approved plans.*
3. *The finished floor and site improvements at 630 Via Lido Nord shall be 12.83 feet (NAVD88), which complies with the minimum 9.0. feet elevation standard in accordance with the recommendations provided in the report prepared by PMA Consulting, Inc. on May 27, 2021, and as identified in the approved plans. The patio finished surface is at 12.50 feet (NAVD 88) which will serve as adequate elevation for flood protection of the site and surrounding properties.*
4. *Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
5. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.*
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.

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7. Demolition beyond the approved scope of work requires planning division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the entire structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
 8. 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. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
 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 (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.
 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. 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 building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
22. *Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.*
23. *All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.*
24. *Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.*

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25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 26. This Coastal Development Permit No. CD2021-013 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
 27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Kruse Residence including, but not limited to, Coastal Development Permit No. CD2021-013 (PA2021-069). 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.