



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 June 11, 2021.

ZONING ADMINISTRATOR ACTIONS JUNE 10, 2021

- Item 1: Haeri Residential Condominiums Tentative Parcel Map No. NP2021-003 (PA2021-061)
Site Address: 600 Jasmine Avenue and 3110 Third Avenue
Action: Approved by Resolution No. ZA2021-030 Council District 6
- Item 2: Devir Residence Coastal Development Permit No. CD2021-004 (PA2021-012)
Site Address: 508 Via Lido Nord
Action: Approved by Resolution No. ZA2021-031 Council District 1
- Item 3: Harrison Residence Addition Coastal Development Permit No. CD2021-002 (PA2021-006)
Site Address: 2034 East Ocean Front
Action: Approved by Resolution No. ZA2021-032 Council District 1
- Item 4: Ressler Residence Coastal Development Permit No. CD2021-012 (PA2021-066)
Site Address: 1700 East Ocean Front
Action: Approved by Resolution No. ZA2021-033 Council District 1

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

- Item 1: Billy's at the Beach Tenant Improvement – Staff Approval No. SA2021-002 (PA2021-064)
Site Address: 2751 West Coast Highway
Action: Approved Council District 3

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

RESOLUTION NO. ZA2021-030

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2021-003 FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 600 JASMINE AVENUE AND 3110 THIRD AVENUE (PA2021-061)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Saul Urquiza (Applicant), with respect to property located at 600 Jasmine Avenue and 3110 Third Avenue, and legally described as Lot 2, Block 637 of the Corona del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. The applicant requests a tentative parcel map for two (2)-unit condominium purposes. A duplex has been demolished and a new duplex is under construction. The tentative parcel map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held online on June 10, 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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for

condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

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.

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. A duplex has been demolished and a new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two (2)-unit residential development because it is regular in shape. A duplex will be demolished and a new duplex will be constructed. The new construction will comply with all development standards of the Zoning Code.
2. The subject property is accessible from the alley and is adequately served by all existing utilities.

Finding:

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

Facts in Support of Finding:

1. A duplex has been demolished and a new duplex is under construction.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3) of the CEQA Guidelines under Class 15 (Minor Land Alterations).

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems.
2. Public improvements will be required of the applicant per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L. The entire curb, gutter, and sidewalk will be reconstructed along Jasmine Avenue and Third Avenue street frontages, a new curb ramp will be installed at the corner, three (3) new street trees will be planted along these frontages, and a 10-foot radius corner cut-off shall be dedicated to the City for street purposes. All existing overhead utilities must be undergrounded.
3. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

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

Fact in Support of Finding:

1. There are no public easements on-site. The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The two (2)-unit dwelling that is under construction is consistent with the intended uses of the R-2 Zoning District, which allows two (2) residential units on the property. The new development will replace an existing duplex and therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

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

Fact in Support of Finding:

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

Finding:

K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter 3 of the Coastal Act.

Fact in Support of Finding:

1. The subject property is not within the Coastal Zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2021-003, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of NBMC Title 19 Subdivisions.

PASSED, APPROVED, AND ADOPTED THIS 10th DAY OF JUNE, 2021.



Matthew Schneider, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to the recordation of the Parcel Map, the existing duplex shall be demolished.
3. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
4. The building permit for the new construction shall not be final until after recordation of the parcel map.
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 (Subdivisions) of the Newport Beach Municipal Code.
6. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Haeri Residential Condominiums including, but not limited to, Tentative Parcel Map No. NP2021-003 (PA2021-061). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

7. A parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The**

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

8. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one (1)-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. Prior to recordation of the parcel map, the entire curb, gutter and sidewalk along the Jasmine Avenue and Third Avenue frontages and all alley panels along the alley frontage shall be reconstructed per City Standard.
11. Prior to recordation of the parcel map, a new accessibly compliant curb ramp and landing shall be installed at the corner of Jasmine Avenue and Third Avenue subject to the review of the City Traffic Engineer.
12. Prior to recordation of the parcel map, a new 36-inch box City tree shall be planted along the Jasmine Avenue frontage and two (2) new 36-inch box City trees shall be planted along the Third Avenue frontage. The tree type shall be consistent with City Council Policy G-6.
13. Prior to recordation of the parcel map, new sod or low groundcovers of the type approved by the City shall be installed throughout the Jasmine Avenue and Third Avenue parkways fronting the development site.
14. Prior to recordation of the parcel map, each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
15. Prior to recordation of the parcel map, all existing overhead utilities shall be undergrounded.
16. Above ground improvements shall not be permitted within the 5-foot alley setback area.
17. An encroachment permit shall be required for all work activities within the public right-of-way.
18. All improvements shall comply with the City's sight distance requirement (City Standard 110-L).

19. Any non-standard encroachments within the Jasmine Avenue and Third Avenue public rights of way, including but not limited to walls, fences, planters, gates, walkways, and hardscape shall be removed.
20. Prior to recordation of the parcel map, a 10-foot radius corner cutoff at the corner of Jasmine Avenue and Third Avenue shall be dedicated to the City for street purposes. Any proposed improvement within the easement shall require the approval of an encroachment agreement and permit.
21. All on-site drainage shall comply with the latest City Water Quality requirements.
22. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Building Division

23. Separate utilities shall be required for each unit.

RESOLUTION NO. ZA2021-031

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-004 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 508 VIA LIDO NORD (PA2021-012)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, with respect to property located at 508 via Lido Nord, requesting approval of a coastal development permit.
2. The lot at 508 Via Lido Nord is legally described as Lot 495 of Tract No. 907 in the City of Newport Beach, Orange County, California.
3. The applicant proposes to demolish an existing single-family residence and construct a new single-family residence of 3,090 square feet with an attached 473-square-foot garage. The structure would reach a height of approximately 24 feet and includes two (2)-stories. The existing bulkhead would be raised to 10.9 feet (NAVD88) and the tiebacks and deadmen would be replaced. The project also includes additional appurtenances such as site walls, fences, patios, landscaping, and drainage devices. The design complies with all development standards including height, setbacks, and floor area limit, and no deviations are requested.
4. 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.
5. 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 Zoning District.
6. A public hearing was held online on June 10, 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 construction of up to six (6) dwelling units in urbanized areas. The proposed project consists of the demolition of one (1) single-family residence and the construction of a new 3,090-square-foot single-family residence and attached 473-square-foot garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, 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 4,368 square feet and the proposed floor area is 3,563 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 4 feet along the front property line abutting Via Lido Nord, 3 feet along each side property line and 10 feet along the rear property line abutting the Bay.
 - c. The highest guardrail and ridge are less than 24 feet from established grade (11.76 feet NAVD88), which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of two (2) vehicles, complying with the minimum two (2)-car garage parking requirements 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 and multi-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.

3. The development fronts the Newport Bay and is protected by a bulkhead. A bulkhead conditions report was prepared by PMA Consulting, Inc. on December 28, 2020. The report concluded that the bulkhead is in good condition with minor horizontal and diagonal cracks and should be reinforced through the installation of new tiebacks and new deadmen. The installation of the tiebacks and deadmen will occur after the demolition of the existing home is complete and prior to the construction of the new home. Once the bulkhead is reinforced in accordance with the enclosed drawings, no repair or replacement of the bulkhead is anticipated within the next 75 years.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated May 28, 2021, for the project. The current maximum bay water elevation is 7.7 (NAVD88) - (North American Vertical Datum of 1988 (NAVD88) and may exceed the existing 7.63 feet (NAVD88) top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.0-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 10.70 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 seawall/bulkhead is raised and reinforced 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. Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that the proposed project will be reasonably safe from flooding hazards for the next 75 years.
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 finished floor elevation of the proposed single-family residence is 11.15 feet (NAVD88), which complies with the minimum 9.00 feet (NAVD88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD88) will not exceed the proposed finished floor for the anticipated 75-year life of the structure.
7. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv) – (Natural Landform and Shoreline Protection - Development Standards), 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 - Waterfront Development). 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 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. The property is located adjacent to coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials.
10. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared on January 20, 2021 for the project by Forkert Engineering & Surveying Inc. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
11. 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.
12. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is across the bay at Kings Road Park and the site is only slightly visible from the park. As currently developed, the existing property and other residences along the bay and Via Lido Nord are located within the view shed of the park and bay. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
13. The front of the residence, which is visible from the bay, provides additional setbacks for the first floor and the living areas on the second floor, with the second-floor balcony at the setback line. The proposed residence includes two (2) stories and reaches a maximum height of 24 feet, where three (3) stories and a maximum height of 29 feet is allowed per the NBMC. Lastly, the design includes modulation of volume throughout the structure and low front site walls that prevent the appearance of the site being walled off from the bay. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (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. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical and lateral access to the bay and beach is available 715 feet northwest of the property at Genoa Park, which is the terminus of Via Genoa. Lateral access is available along the beach in front of Genoa Park. Additional vertical access points to the water are located at the terminus of Via Koron and Via Ithaca. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (Conversion or Construction 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. CD2021-004, 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 10TH DAY OF JUNE, 2021



Matthew Schneider, 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 Bulkhead Conditions Report and Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting, Inc, dated December 28, 2020 and May 28, 2021 respectively. All improvements shall occur landward of the existing bulkhead.*
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. 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.
7. 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.
8. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.

9. Prior to issuance of 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.
10. 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.
11. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
12. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
13. This Coastal Development Permit does not authorize any development seaward of the private property.
14. 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.
15. 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.

16. 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.
17. 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.
18. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
19. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
20. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
21. 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.
22. 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.
23. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
24. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
26. This Coastal Development Permit No. CD2021-004 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 Devir Residence including, but not limited to, Coastal Development Permit No. CD2021-004 (PA2021-012). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2021-032

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-002 FOR AN ADDITION OF 1,231 SQUARE FEET ON THE SECOND FLOOR AND 234 SQUARE FEET OF GARAGE AREA TO AN EXISTING SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE LOCATED AT 2034 EAST OCEAN FRONT (PA2021-006)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Kemmerer Design Architecture, Inc, with respect to property located at 2034 East Ocean Front, and legally described as Lot 9 of Block D, requesting approval of a Coastal Development Permit.
2. The applicant proposes a 1,231-square-foot, second floor addition and a 234-square-foot garage addition to an existing 1,786-square-foot, single-family residence with a 484-square-foot attached garage.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single Unit Residential Detached (RS-D). The R-1 Zoning District permits single-unit residential dwellings.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (10.0 – 19.9 DU/AC) (RSD-C) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. A public hearing was held online on June 10, 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 15301, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities), because it has no potential to have a significant effect on the environment.
2. Class 1 exempts the addition to existing structures provided that the addition will not result in an increase of more than 10,000 square feet. The proposed project is an addition of 1,465 square feet to an existing single-family residence located in the R-1 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 4,733 square feet and the proposed floor area is 3,735 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet abutting the East Ocean Front and 3 feet along each side property line. There is no required setback abutting the East Ocean Front Alley.
 - c. The highest guardrail/parapet is below 24 feet from established grade and the highest ridge is below 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The existing development provides a two (2)-car garage. The proposed project includes the construction of a third space. The development meets the minimum garage requirement for a single-family residence.
 - e. The proposed development complies with the minimum 9.0-foot North American Vertical Datum of 1988 (NAVD 88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story single unit residences. The proposed two (2)-story structure's design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The finish floor elevation of the proposed dwelling is 14.5 feet (NAVD 88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard.
4. A Coastal Hazards Report was prepared by Geosoils, Inc. on February 19, 2021. The project site is separated from the water by a wide sandy beach. The site is approximately 400 feet from the mean high tide line. The report concludes that the highest high tide elevation (currently 7.7 feet NAVD 88) will not exceed 10.9 feet (NAVD 88) using the low-risk aversion projected sea level rise (3.2-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California

Sea-Level Rise Guidance 2018. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6 feet (13.7 feet NAVD 88). Additionally, the site has not historically been subject to any wave overtopping, nor is overtopping waters over the next 75 years expected to reach the subject site, even under extreme conditions. Based on the data provided, the study provides no recommendations necessary for shoreline protection devices and concludes that coastal hazards will not impact the property over the next 75 years, as the proposed project has minimal risk from flooding.

5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
6. The project site is not located adjacent to a coastal view road, public viewpoint, public park, or public accessway, as identified in the Coastal Land Use Plan. The project site is located adjacent to a public beach and is visible from the beach. Additionally, the project may be located within the viewshed of distant public viewing areas. However, the project is an addition to an existing 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.*

Facts 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 is an addition to an existing single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. The project site is located between L Street and M Street, which are identified by the Coastal Land Use Plan as vertical access locations. The project does not interfere with the existing nearby access to the beach.

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 Coastal Development Permit No. CD2021-002, 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 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 (NBMC). 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 10TH DAY OF JUNE, 2021.



Matthew Schneider, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2021-002 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.
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 to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with both agencies for: 1) the removal of any unpermitted development located seaward of the property and within the prolongation of the side

property lines of the subject property, and 2) the restoration of the affected area consistent with a restoration plan approved by the City and Coastal Commission.

9. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Prior to 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.
14. 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.
15. 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.
16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 17. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
 18. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
 19. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 20. 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.
 21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Harrison Residence Addition including, but not limited to, Coastal Development Permit No. CD2021-002 (PA2021-006). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

22. 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.

23. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
24. 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.

RESOLUTION NO. ZA2021-033

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-012 FOR THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND THE CONSTRUCTION OF A NEW THREE (3)-STORY, 3,666-SQUARE-FOOT, SINGLE-FAMILY RESIDENCE WITH A 613-SQUARE-FOOT ATTACHED THREE (3)-CAR GARAGE LOCATED AT 1700 EAST OCEAN FRONT (PA2021-066)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero, with respect to property located at 1700 East Ocean Front, and legally described as Lot 1 of Block C, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new three (3)-story, 3,666-square-foot, single-family residence with a 613-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single Unit Residential Detached (RS-D). The R-1 Zoning District permits single-unit residential dwellings.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (10.0 – 19.9 DU/AC) (RSD-C) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. A public hearing was held online on June 10, 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 construction of limited numbers of new, small structures, including one (1) single-family residence. The proposed project is a new single-family residence located in the R-1 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 4,736 square feet and the proposed floor area is 4,279 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet abutting the East Ocean Front and 3 feet along each side property line.
 - c. The highest guardrail/parapet is below 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a three (3)-car garage, exceeding the minimum garage requirement for a single-family residence.
 - e. The proposed development complies with the minimum 9.0-foot North American Vertical Datum of 1988 (NAVD 88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story single-unit residences. The proposed three (3)-story structure's design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The finish floor elevation of the proposed dwelling is 14.25 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard.
4. A Coastal Hazards Report was prepared by Geosoils, Inc. on February 3, 2021. The project site is separated from the water by a wide sandy beach. The site is approximately 390 feet from the mean high tide line. The report concludes that the highest high tide elevation (currently 7.7 feet NAVD 88) will not exceed 10.9 feet (NAVD 88) using the

low-risk aversion projected sea level rise (3.2-foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6 feet (13.7 feet NAVD 88). Additionally, the site has not historically been subject to any wave overtopping, nor is overtopping waters over the next 75 years expected to reach the subject site, even under extreme conditions. Based on the data provided, the study provides no recommendations necessary for shoreline protection devices and concludes that coastal hazards will not impact the property over the next 75 years, as the proposed project has minimal risk from flooding.

5. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 2,500 square feet of impervious surface area, a Water Quality Management Plan (WQMP) is required. A WQMP prepared by Thomas M. Ruiz, Civil Engineer, dated March 22, 2021, has been submitted and will be reviewed by the City's Engineer Geologist. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and the CBC prior to building permit issuance.
7. The project site is not located adjacent to a coastal view road, public viewpoint, public park, or public accessway, as identified in the Coastal Land Use Plan. The project site is located adjacent to a public beach and is visible from the beach. The project is also located adjacent to the I Street street-end. The project may be located within the viewshed of other distant public viewing areas. Site evaluation revealed that the proposed three (3)-story design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from the I Street street-end. 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.*

Facts 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.
2. The project site is located between I Street and L Street, which are identified by the Coastal Land Use Plan as vertical access locations. The project does not interfere with the existing nearby access to the beach.

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 (Conversion or Construction 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. CD2021-012, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code (NBMC). 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 10TH DAY OF JUNE, 2021.



Matthew Schneider, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2021-012 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 (NBMC), unless an extension is otherwise granted.
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 to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
7. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
8. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).

9. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
10. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock-piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
11. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
12. 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.
13. 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.
14. 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.

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 permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
19. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
20. 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 Ressler Residence including, but not limited to, Coastal Development Permit No. CD2021-012 (PA2021-066). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

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 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 drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.

23. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
24. 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.

Public Works Division

25. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with both agencies for: 1) the removal of any unpermitted development located seaward of the property and within the prolongation of the side property lines of the subject property, and 2) the restoration of the affected area consistent with a restoration plan approved by the City and Coastal Commission.



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

**COMMUNITY DEVELOPMENT DIRECTOR ACTION
LETTER**

Subject: Billy's at the Beach Tenant Improvement (PA2021-064)
• Staff Approval No. SA2021-002

Site Location 2751 West Coast Highway

Applicant 2751 W Coast Acquisition, DBA Billy's at the Beach

Legal Description Parcel C of Record of Survey 2010-1090, being the Southeasterly 100.00 feet of the Northwesterly 250 feet of Lot "H" of Tract No. 919, filed in Book 29, Page(s) 31-34, of Miscellaneous Maps

On **June 11, 2021**, the Community Development Director approved Staff Approval No. SA2021-002 to allow for tenant modifications including a new bifold operable storefront wall across the waterfront side of the restaurant to open the interior and create a more open atmosphere and a new 42-inch high windscreen in the 10-foot waterfront setback. This approval is based on the following findings and subject to the following conditions.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** Mixed-Use Water 1 (MU-W1)
- **Zoning District:** Mixed-Use Water (MU-W1)
- **Coastal Land Use Plan Category:** MU-W Mixed-Use Water Related
- **Coastal Zoning District:** MU-W1 Mixed-Use Water

PROJECT SUMMARY

The applicant proposes to renovate the existing restaurant to add a new bifold operable storefront wall across the waterfront side of the restaurant to create a more open atmosphere and a new 42-inch high windscreen to the bulkhead within the 10-foot waterfront setback.

BACKGROUND

The original restaurant was approved by the City Council on March 8, 1982, with alcohol service and live entertainment under Use Permit No. UP2003. The use included compact car spaces, valet parking, and an off-site parking agreement for a portion of the required parking spaces.

In 1989, the Planning Commission approved Use Permit No. UP3328 and Traffic Study No. TS52, modifying the use allowing a nighttime only restaurant with on-sale alcoholic

beverages, live entertainment, and valet parking. A total of 20 off-site parking spaces were required through an off-site parking agreement. This use permit was subsequently amended by the Planning Commission on June 8, 1995, to allow for the addition of lunch hours beginning at 11:00 a.m., daily.

In 2000, the Planning Commission authorized further changes to the use pursuant to Use Permit No. UP3674 and Outdoor Dining Permit No. OD67. These entitlements allowed a 768-square-foot outdoor dining area, required a minimum 6-foot high physical barrier around the patio area, and authorized an off-site parking agreement for 50 parking spaces at 2700 West Coast Highway and 24 parking spaces off-site at 2620 Avon Street. The Use Permit prohibits outdoor live entertainment and outdoor speaker systems, and the limited hours of the outdoor dining areas would prevent noise from adversely impacting the residential uses across the bay.

I. FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project), the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of the approved use, without a public hearing, and waive the requirement for a new use permit application. In this case, the Community Development Director has determined that the proposed changes are in substantial conformance with the entitlements:

Finding:

A. *Are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. Food service uses are permitted within the Mixed-Use Water (MU-W1) Zoning District subject to the approval of a use permit.
2. Use Permit No. UP2003, approved on March 8, 1982, Use Permit No. UP3328, most recently amended on June 8, 1995, and Use Permit No. UP3674 and Outdoor Dining Permit No. OD67 were approved November 9, 2000, which allow the existing eating and drinking establishment with live entertainment (inside), off-site parking, and accessory outdoor dining.
3. The request to add bifold operable doors to open the interior of the existing restaurant for a more open atmosphere and to add a 42-inch high windscreen is consistent with operational characteristics and conditions approved by Use Permit No. UP3328, Use Permit No. UP3674, and Outdoor Dining Permit No. OD67. The gross floor area, the net public area, and the total area devoted to outdoor dining are not changing.

Finding:

- B. *Do not involve a feature of the project that was a basis for or subject of findings or exemptions in a negative declaration or Environmental Impact Report for the project.*

Facts in Support of Finding:

1. The previously approved project was determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Class 1 (Existing Facilities), which exempts minor alterations to existing facilities involving negligible expansion of use beyond that existing at the time of the lead agency's determination. There were no specific facts, findings, mitigation measures or conditions that would preclude the proposed modifications to the use.
2. The Class 1 exemption consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use including interior or exterior alterations involving such things as interior partitions. In this case, the proposed tenant modifications and windscreen are consistent with the Class 1 (Existing Facilities) exemption and the establishment will operate in substantially the same capacity as it did previously with no expansion in use.
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. A noise analysis was conducted for the proposed changes to the building, which supports that there are no unusual impacts or exceptions that would invalidate the Class 1 exemption determination.

Finding:

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

Facts in Support of Finding:

1. The proposed tenant improvements to the existing eating and drinking establishment do not involve a feature that was specifically addressed or was the subject of a condition of approval for Use Permit No. UP3328, Use Permit No. UP3674, and Outdoor Dining Permit No. OD67.

2. Condition No. 26 of Use Permit No. 3328 prohibits the use of an outdoor sound or paging system. No outdoor sound or paging system is proposed under the current scope of work.
3. In accordance with Condition No. 21 of Use Permit No. UP3674 and OD67, the Planning Division reserves the right to require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
4. Condition No. 26 of Use Permit No. 3328 and Condition No. 26 of UP3674 and OD67 require all music from live entertainment be confined to the interior of the building with all doors and windows closed while live entertainment is performed. The bifold doors will continue to be closed in the event that live entertainment is performed.
5. In accordance with Condition No. 27 of UP3674 and OD67, the applicant will retain a qualified engineer specializing in noise/acoustics generated by live entertainment to ensure compliance with these conditions, if required by the Community Development Director. A noise analysis (Attachment No. CD 2) has been prepared to demonstrate that the bifold operable doors will not create a conflict with the Community Noise Control Ordinance (Chapter 10.26 of the Newport Beach Municipal Code).
6. Condition No. 29 of UP3674 and OD67 requires a 6-foot barrier for outdoor dining areas to ensure compliance with the Community Noise Control Ordinance (Chapter 10.26 of the Newport Beach Municipal Code). The tenant modifications will not modify the existing 6-foot barrier around the existing outdoor dining area. The proposed 42-inch high windscreen along the front bulkhead is not a barrier for an outdoor dining area and will comply with the 42-inch height limit within the 10-foot waterfront setback.
7. The allowed hours of operation for the existing eating and drinking establishment and outdoor dining area are not proposed to be changed.

Finding:

D. Do not result in an expansion or change in operational characteristics of the use.

Facts in Support of Finding:

1. The existing food service establishment with live entertainment and accessory outdoor dining is expected to continue to operate as authorized in their existing entitlements. The net public area and hours of operation are not being modified as part of this building improvement.
2. The addition of bifold doors on the waterfront do not involve an expansion or change in the operational characteristics of the use. A noise analysis has been completed (Attachment No. CD 2), demonstrating that opening of the bifold doors during regular

dining hours will not pose a conflict with Section 10.26.025 (Exterior Noise Standards) of the Newport Beach Municipal Code. Windows and doors will continue to be closed when live entertainment is performed.

3. The bifold doors will continue to be closed in the event of live entertainment and dancing in accordance with Condition No. 26 of UP3328 and Condition No. 26 of UP3674 and OD67.
4. The tenant modifications including the addition of a 42-inch high windscreen along the bulkhead in the 10-foot waterfront setback are not expected to substantially modify the existing use or area of operations.
5. There is a 6-foot wide public pedestrian access easement along the waterfront of the establishment. This easement will be maintained in perpetuity with the proposed improvements.

II. CONDITIONS

All previous findings and conditions of Use Permit No. 2003, Use Permit No. UP3328, Use Permit No. UP3674 and Outdoor Dining Permit No. OD67 shall remain in full force and effect as stated in Attachment No. CD 3, with the addition of the following conditions:

1. The development authorized by this staff approval shall be in substantial conformance with the approved project plans.
2. A building permit shall be obtained prior to commencement of the construction. A copy of this approval letter shall be incorporated into both the Building Division and field sets of plans prior to issuance of the building permits.
3. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. A building permit is required to allow the change in use to an eating and drinking establishment. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Complete sets of drawings including architectural, electrical, mechanical, and plumbing plans shall be required at plan check.
4. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Billy's at the Beach Tenant Improvement including, but not limited to, Staff Approval No. SA2021-002 (PA2021-064). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys'

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

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development 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.

On behalf of Seimone Jurjis, Community Development Director,

Prepared by:



Makana Nova, Senior Planner, AICP

MKN/vk

Attachments: CD 1 Vicinity Map
CD 2 Noise Analysis
CD 3 UP2003, UP3328, UP3674, and OD67 Conditions of Approval
CD 4 Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2021-002
(PA2021-064)

2751 West Coast Highway

Attachment No. CD 2

Noise Analysis

April 2, 2021 revised May 24, 2021

Billy's at the Beach

2751 West Coast Highway
Newport Beach, CA 92663

Attention: Leo Heydorff

Subject: **Billy's at the Beach**
Newport Beach, CA
Acoustical Measurement Report Rev. 2
VA Project No. 5215-009

Dear Leo:

Veneklasen Associates, Inc. (VA) has completed our review of the Billy's at the Beach restaurant located in Newport Beach, California. This report summarizes the acoustical measurements performed at the restaurant and across the harbor to study potential future compliance with the Newport Beach Municipal Code following the upcoming restaurant façade modification. This report represents the results of our findings.

1.0 INTRODUCTION

This study was conducted to determine the impact of the Billy's at the Beach restaurant on nearby properties following a modification of the exterior façade, namely converting fixed glazing into operable glass walls. VA's scope of work included performing acoustical measurements at the exterior of the restaurant and at a nearby park across the harbor to establish the existing ambient noise levels at each location. Using this information, VA could determine whether restaurant noise due to the new, openable windows would be in violation of the City of Newport Beach Municipal Code.

VA understands that the south-facing façade currently composed of fixed glazing will be replaced with operable, sliding glass walls that will expose interior restaurant noise to the harbor and surrounding area south of the restaurant. VA also understands that there will not be live music performed at the restaurant, and that per Use Permit UP3328, all windows and doors would need to be closed during live entertainment hours. Doors and windows will be open between 10 AM and 2 PM.

Note that a similar study has previously been conducted to determine the potential effects of restaurant noise on the surrounding community, issued by Veneklasen in August 2020. This prior study was conducted while no dine-in operations at the restaurant were being held due to covid; therefore, there was no activity at the restaurant that could be measured. This report is based on sound measurements taken after dine-in operations had resumed.

2.0 NOISE CRITERIA

Leq (equivalent continuous sound level) is defined as the steady sound pressure level which, over a given period of time, has the same total energy as the actual fluctuating noise. This is roughly the average sound pressure level over a given time period.

2.1 City of Newport Beach Municipal Code

Chapter 10.26.025 of the Newport Beach Municipal Code sets forth allowable exterior and interior sound levels at nearby properties due to sound generated by an outside person or property. Table 1 below summarizes the allowable levels at residential and commercial properties, which are the land uses relevant to this study.

Table 1 – Allowable Exterior Noise Levels, dBA Leq

Land Use		7am - 10pm	10pm - 7am
Residential	Interior	45	40
	Exterior	55	50
Commercial	Interior	–	–
	Exterior	65	60

Additionally, Chapter 10.28.010 of the Newport Beach Municipal Code sets forth policy regarding “loud and unreasonable” noise. In part, it states that it is unlawful for any person or property owner to make or allow to be made any noise that is unreasonable or disturbing to any person of reasonable sensitivity. This includes noise from music or raised voices.

Based on the language of Chapter 10.28.010, the conservative interpretation of these portions of Code is that any noise that is audible could potentially be objectionable, especially when it pertains to restaurant noise being audible at a nearby residence. Therefore, with the new operable windows open at the restaurant, noise should not be audible at nearby residences to avoid any potential complaint or violation. A sound is considered “audible” if it is within 10 dBA of the ambient/background sound levels. For example, if the ambient sound level at the exterior of a residence is 40 dBA, then a sound will be audible if it has a level of 30 dBA. A 10-dBA difference will be referred to as the threshold of audibility for the purposes of this study. It is possible that Chapter 10.26.025 will be the prevailing Code, but inaudibility should be targeted if feasible.

VA does not believe that maintaining inaudibility is critical for other nearby restaurants or retail stores since a) these are not areas where people sleep, b) restaurants and retail stores tend to generate their own noise that will “mask” most or all of the noise from Billy’s, and c) there is typically not an expectation at retail stores and restaurants that activity from other nearby restaurants or stores needs to be inaudible. Because of these considerations, VA will apply Chapter 10.26.025 of the code to commercial portions of this study. This can be revisited if noise from Billy’s to surrounding restaurants and retail is a specific concern.

3.0 ACOUSTICAL MEASUREMENTS

VA visited Billy’s on March 24, 2021 to make acoustical measurements at the restaurant and at a nearby park across the harbor, Lido Paddle Sports located at 3300 Via Lido. Measurements were conducted to establish the existing ambient noise levels around the restaurant and in a nearby neighborhood, since the ambient levels will drive the threshold of audibility. Measurements were conducted for 2 hours using Brüel & Kjær type 1 sound level meters to establish sound levels at the restaurant and at the park. This time period includes the peak dining activity at the restaurant, which corresponds with the highest sound levels at the site.

Figure 1 below shows the locations of the sound measurements. At the restaurant, a sound level meter was set up on the walkway to the south of the façade between the restaurant and the harbor. At the park, the sound level meter was set up at the edge of parking lot closest to Billy’s with a direct line of sight to the restaurant.

Also noted in Figure 1 below is the “worst-case scenario” location at the northwest tip of Lido Island. This is the residential location closest to Billy’s that would potentially be the most affected by noise from restaurant activity. This location could not be measured since it is a private residence, but sound levels at this location due to the restaurant can be estimated (see Section 4.0 of this report).

Figure 1 – Acoustical Measurement Locations



The ambient sound levels at Billy's and at the park are controlled by vehicle traffic. At Billy's, the predominant noise source is traffic on Pacific Coast Highway to the north of the restaurant, with additional contribution from traffic on Newport Boulevard to the west. At the park, the traffic is predominantly on Via Lido to the south, with minor contribution from Newport Boulevard to the northwest and West Coast Highway to the north.

Table 2 summarizes the measured ambient sound levels at both locations. Measurements were conducted between 5:30pm and 7:30pm, since these correspond with Billy's peak operating hours. Leq levels are presented below, along with L95 levels which represent the sound level above which 95% of all measured sound levels occur (i.e. the fifth percentile level). L95 levels are sometimes used to quantify ambient sound levels since they filter out short-term events such as car pass-byes that drive up the overall Leq level. For the

purposes of this study, the L95 level at the park is considered the ambient level. Qualitatively, no sound was audible from Billy's while measurements were being conducted at the park.

Table 2 – Summary of Measured Ambient Noise Levels, dBA

Location	Leq	L95
Billy's	59	53
Park	59	51

Based on the L95 data, to satisfy the most conservative interpretation of the Municipal Code, sound levels due to activity at Billy's should be no higher than 41 dBA at the park. This is in line with the previous study, which found that the sound levels should be no higher than 40 dBA before 10pm to maintain inaudibility. Also note that this allowable level will also apply to the nearby houses on Lido Isle since the L95 metric removes much of the effects of nearby car pass-byes, which will not be present at the sides of the houses facing the harbor.

Veneklasen's previous report asserted that sound levels will not be noticeably higher at the nearest residence on Lido Isle than at 3388 Via Lido, which is the location at which the previous measurements were taken. The measured data in this study confirms this since the respective ambient sound levels are similar (Leq levels from the previous study with no nearby traffic and the L95 levels from this study with nearby traffic "filtered out").

Based on the previous study, sound from the restaurant should be no higher than 37 dBA after 10pm to maintain inaudibility. This was determined from the ambient sound levels made at that time, which were 47 dBA between 10pm and 2am. Per the working definition of the threshold of audibility, sound from the restaurant will be considered inaudible if it is 10 dBA below the ambient, which in this case would be 37 dBA. Because those sound levels are lower than what was measured for this revised study, they should be used to establish a conservative target for allowable sound levels.

As noted above, sound from Billy's was not audible during this set of measurements. Because the sound was inaudible, the measured ambient sound level was not affected.

4.0 ANALYSIS AND RECOMMENDATIONS

Because the ambient sound levels are not affected with the restaurant operating dine-in business, VA's original findings and recommendations in the previous report have not changed. Additionally, because the park at which these measurements were conducted is actually slightly further away than the original building at which the measurements were done, the new measurement data would allow for higher sound levels at the restaurant and still meet compliance (the same sound level at a further distance means that the sound level at the source is higher). Therefore, the original findings from the previous report should be used to be more conservative.

The following sound levels were determined using distance-loss calculations based on the measured sound levels at Billy's. In a free field (i.e. no acoustical reflections), sound dissipates at a rate of 3 dBA per doubling of distance. Using this, VA was able to determine sound levels using the distances away from Billy's at various locations.

In summary, sound levels due to Billy's can be up to 78 dBA at the southern edge of the walkway on the harbor side of the restaurant and be inaudible at the park and nearby homes. This would result in a sound level below 37 dBA, which is the threshold of audibility at the park and the rest of Lido Isle. Sound levels during the day can be 3 dBA higher – 81 dBA – because the daytime ambient sound level is 3 dBA higher than at night. This would satisfy Chapter 10.28.010 of the Municipal Code, which is the most conservative target.

Similarly, to achieve the published, quantitative maximum-allowable sound levels from Chapter 10.26.025, sound levels outside of Billy's could be 91 dBA and achieve a sound level of 50 dBA at the park and nearest residence on Lido Isle at night or 96 dBA during the day to achieve 55 dBA.

A sound level of 78 dBA outside a restaurant is relatively loud; VA does not expect that this can reasonably be expected 10 feet outside of Billy's unless certain events are happening at the restaurant, let alone 91 dBA. Additionally, because of the Use Permit referenced at the beginning of this report, live bands and DJ's are required to perform with the doors and windows at Billy's closed. Therefore, it is not reasonable to expect that sound levels would ever exceed 91 dBA outside of the restaurant.

To satisfy the commercial land use target of Chapter 10.26.025, sound levels 10 feet outside of Billy's would need to be no higher than 71 dBA at night or 76 dBA during the day. This is based on an approximate distance of 37 feet between the nearest adjacent property line (Louie's by the Bay located at 2801 West Coast Highway) and the reference distance outside of Billy's. As noted above, this sound level may be moot if an adjacent restaurant is generating its own noise and therefore rendering noise from activity at Billy's inaudible or negligible.

The nearest commercial land uses across the bay from Billy's are restaurants along the harbor (such as Malibu Farm Lido at 3420 Via Operto #101 and adjacent restaurants), which generate their own noise from background music and people talking. VA observed these restaurants at the closest locations to Billy's and only sound from the restaurants was audible – no sound from Billy's could be heard. Therefore, activity at Billy's will not affect these locations across the harbor.

As a precaution, VA strongly recommends that if any loudspeakers are installed near the new operable windows, they should face north toward the inside of the restaurant and not south toward the harbor. This will greatly reduce the likelihood of audible sound transmission across the harbor from speakers. Additionally, if any new speakers are installed outside the restaurant, they should be facing downward as much as possible so that the sound is aimed into the ground and not south and horizontal towards residences.

5.0 SUMMARY

Following this recent study and new acoustical measurements, VA found that the original measurements and findings still apply:

- Per Use Permit UP3328, all windows and doors need to be closed during live entertainment hours. Doors and windows will be open between 10 AM and 2 PM.
- Measured data from the previous study between the hours of 10 PM and 2 AM will apply since those levels are more conservative than what was measured during earlier hours for this updated study. The levels measured at that location will be similar to the levels expected at the nearest location on Lido Isle to Billy's. The findings in this updated report do not alter the original findings between 10 pm and 2 AM from the previous report.
- To satisfy maximum-allowable exterior sound levels at the property lines of adjacent commercial buildings, sound levels at the same location outside of the restaurant should be no higher than 76 dBA during the day or 71 dBA at night. This may be moot if adjacent restaurants are also operating at the same time as Billy's or if adjacent businesses are closed.
- VA believes that these are reasonable sound levels that can be maintained during normal operation at Billy's. Further mitigation may be required if live bands or DJ's perform outdoors.

Please do not hesitate to contact the undersigned with any questions or comments.

Sincerely,
Veneklasen Associates, Inc.



Matt Rashoff
Associate

Attachment No. CD 3

UP2003, UP3328, UP3674, and OD67
Conditions of Approval

EXHIBIT "A"
FINDINGS AND CONDITIONS OF APPROVAL FOR
Use Permit No. 3674
Outdoor Dining Permit No. 67
Outdoor Dining Permit No. 68
Off-Site Parking Agreement
Approved by Planning Commission 11/09/2000

FILE COPY

Use Permit No. 3674 and Outdoor Dining Permit No. 67
2751 West Coast Highway

Findings:

1. The Land Use Element of the General Plan and the Local Coastal Program Land Use Plan designates the site for "Recreation and Marine Commercial" uses and the existing restaurant is a permitted use within this designation.
2. This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 1 (Existing Facilities).
3. The approval of Use Permit No. 3674, Accessory Outdoor Dining Permit No. 67, and Off-Site Parking Agreement, will not, under the circumstances of the case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or be detrimental or injurious to property or improvements in the neighborhood or the general welfare of the City, and would be consistent with the legislative intent of Title 20 of the Newport Beach Municipal Code, for the following reasons:
 - The proposed outdoor dining is consistent with the Land Use Element of the General Plan, and is compatible with the surrounding land uses.
 - The existing on-site and off-site parking, and circulation system, is adequate to accommodate the proposed exterior dining areas.
 - That the proposed outdoor dining is accessory to the Eating and Drinking Establishment.
 - The proposed accessory outdoor dining expansion will not be located so as to result in a reduction of existing parking spaces because there is adequate replacement parking available in the off-site lot located at 2620 Avon Street.
 - There is an additional secondary off-site lot under the same ownership, located at 2620 Avon Street that is available for parking both day and night.
 - The addition of the outdoor dining to the subject property is subject to all the findings and conditions of approval of previous Use Permit No. 3328 and Use Permit No. 3328 Amended, and not an independent use.
 - The limited hours of the outdoor dining areas should prevent noise from adversely impacting the residential uses across the bay.
 - The restrictions on the use of solid roof structures as applied to this approval are consistent with the intent and purpose of the accessory outdoor dining to provide outdoor dining opportunities.
 - The control of noise can be achieved by the limitation on the location of the live entertainment and compliance with the provisions of the Municipal Code, Community Noise Ordinance.
 - The proposal will not add a new liquor license to an over-concentrated area, providing only for the operational change of an existing restaurant with an existing alcoholic beverage license.

- The off-site parking lot located at 2700 West Coast Highway is currently being used to meet the parking requirement of the restaurant facility and the proposed off-site lot at 2620 Avon Street, are located so as to be useful in conjunction with the existing restaurant uses.
- Parking on the off-site lot located at 2620 Avon Street will not create undue traffic hazards in the surrounding area.
- The off-site parking lot on Avon Street is owned by the same owner as the restaurant sites and will be maintained as an off-site parking lot for the duration of the restaurant use.
- A condition of approval is included, requiring the provision of 24 parking spaces in the lot located at 2620 Avon Street and an off-site parking agreement will be recorded in the County Recorder's Office.
- A fee for the administrative costs of processing the off-site parking agreement with County Recorder's Office will be paid.
- The design of the proposed improvements will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development.
- Public improvements may be required of a developer per Section 20.91.040 of the Municipal Code.

Conditions:

1. Development shall be in substantial conformance with the approved site plan and floor plan, except as noted in the following conditions.
2. The accessory outdoor dining for the restaurant located at 2751 West Coast Highway shall be used in conjunction with the related adjacent food establishment and shall be limited to 425 sq. ft. maximum of dining area and 220 sq. ft. of service areas.
3. The area outside of the food establishment shall be maintained in a clean and orderly manner.
4. No outside paging or speaker system shall be permitted.
5. No live entertainment is permitted in the outdoor dining area.
6. The outdoor dining area associated with the restaurant uses shall be limited to the area as delineated on the approved site plan only.
7. A minimum of fifty (50) parking spaces shall be maintained in the off-site lot located at 2700 West Coast Highway.
8. A minimum of twenty-four (24) parking spaces shall be maintained in the off-site lot located at 2620 Avon Street.
9. In the event that either property located at 2751 West Coast Highway or 2801 West Coast Highway becomes under separate ownership, an easement or lot line adjustment to permit the outdoor dining for 2801 West Coast Highway to be located partially on 2751 West Coast Highway shall be approved, or that portion of the outdoor dining area that crosses the property line shall be removed.
10. The owner or owners and the City shall execute a written instrument or instruments, approved as to form and content by the City Attorney, providing for the maintenance of the required off-street parking on such lots for the duration of the proposed use or uses on the building site or sites. Should a change in

use or additional use be proposed, the off-street parking regulations applicable at the time shall apply. Such instruments shall be recorded in the office of the County Recorder.

11. A fee as shall be paid for the administrative costs of processing the off-site parking agreement.
12. The revised on-site parking plan and the parking plan for the off-site lots located at 2700 West Coast Highway and 2620 Avon Street, and the vehicular circulation and pedestrian circulation systems shall be subject to further review by the City Traffic Engineer to approve the new parking configuration and compliance with the previously approved use permit if any alterations are made to the off-site lot.
13. All trash shall be stored within the building or within dumpsters stored in the trash enclosure, or otherwise screened from the view of neighboring properties except when placed for pick-up by refuse collection agencies. That the trash dumpsters shall be fully enclosed and the top shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency.
14. The applicant shall maintain the trash dumpsters or receptacles so as to control odors, which may include the provision of fully self-contained dumpsters or may include periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Department.
15. Storage outside of the building shall be prohibited, with the exception of the required trash container enclosure and existing storage structures.
16. For sunshade purposes, coverings shall be limited to the use of umbrellas or retractable awnings with a minimum vertical clearance of 7 feet measured from the floor of the dining area to the lowest portion of the shade structure. The use of solid, permanent roof coverings or patio covers shall be prohibited.
17. All signs shall conform to the provisions of Chapter 20.67 of the Municipal Code.
18. Alcoholic beverage service shall be prohibited in the outdoor dining areas, unless the approval of the Police Department and the Alcoholic Beverage Control Board are first obtained. Any substantial physical changes required (as determined by the Planning Department) to accommodate alcoholic beverage service shall be subject to the approval of an amendment to this Outdoor Dining Permit.
19. All applicable conditions of approval of Use Permit No. 3328 Amended shall remain in force (copy attached).
20. The hours of operation of the outdoor dining area are limited to between the hours of 11:00 a.m. to 10:00 p.m., Sunday through Thursday, and 11:00 a.m. to midnight, Friday and Saturday; and that any increase in the hours of operation shall be subject to the approval of an amendment to this application.
21. Should problems arise with regard to noise associated with the outdoor dining areas, the Planning Department reserves the right to require the removal of all or a portion of the outdoor dining area seating in the areas which contribute to the noise problems or complaints.
22. The project shall be designed to eliminate light and glare onto adjacent properties or uses, including minimizing the number of light sources. The plans shall be prepared and signed by a licensed Electrical Engineer acceptable to the City. Prior to the issuance of any building permit the applicant shall provide to the Planning Department, in conjunction with the lighting system plan, lighting fixture product types and technical specifications, including photometric information, to determine the extent of light spillage or glare which can be anticipated. This information shall be made a part of the building set of plans for issuance of the building permit. Prior to issuance of the certificate of

occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code Enforcement Division to confirm control of light and glare specified by this condition of approval.

23. The patio shall be closed for the evening upon verification of non-compliance with any conditions of this Use Permit or Outdoor Dining Permit and, if the patio is not closed, the matter shall be referred to the Planning Department for action on the Use Permit and/or Outdoor Dining Permit.
24. Should problems arise with regard to tables, chairs or stools encroaching into the public right-of-way, private property pedestrian access or walkways, the Planning Department reserves the right to require the removal of all or a portion of the outdoor dining area seating.
25. Should this business 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 owner or the leasing company.
26. The live entertainment shall be confined to the interior of the restaurant and all doors and windows of the establishment shall remain closed during all performances, except when persons enter and leave by the main entrance of the facility or to the outdoor dining area. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code that provides, in part, that the sound shall be limited to no more than depicted below for the specified time periods. In determining the project's compliance with the Community Noise Control Ordinance (Chapter 10.26 of the City of Newport Beach Municipal Code), each of the noise level standards specified in Section 10.26.025 and Section 10.26.030 shall be reduced by 5 dBA for a simple tone noise such as a whine, screech, or hum, noise consisting primarily of speech or music, or for recurring impulsive noise such as hammering or riveting.

	<u>Between the hours of 7:00 a.m. and 10:00 p.m.</u>	<u>Between the hours of 10:00 p.m. and 7:00 a.m.</u>
Measured at the property line of Commercially zoned property:	65 dBA	60 dBA
Measured at the property line of Residentially zoned property:	60 dBA.	50 dBA

27. The applicant shall retain a qualified engineer specializing in noise/acoustics to monitor the sound generated by the live entertainment to insure compliance with these conditions, if required by the Planning Director.
28. The approval is for the establishment of outdoor dining for an existing full service restaurant facilities as defined by Title 20 of the Municipal Code, with the principal purpose for the sale or service of food and beverages with sale and service of alcoholic beverages incidental to the food use during the specified restaurant hours of operation.
29. The area of the outdoor dining shall be delineated with a minimum 6 foot high physical barriers designed, installed and maintained around the patio area to insure compliance with the Community Noise Control Ordinance (Chapter 10.26 of the Newport Beach Municipal Code).
30. Dancing shall be prohibited as a part of the regular operation, unless an amendment to this use permit, any previous use permits, and outdoor dining permits, and other required application is first approved in accordance with the provisions of the Municipal Code.

31. The project shall comply with State Disabled Access requirements.
32. All improvements shall be constructed as required by Newport Beach City Ordinance and the Public Works Department.
33. The Off-Site parking agreement shall be reviewed and approved by the Traffic Engineer prior to the issuance of the occupancy permit or implementation of the outdoor dining.
34. The Planning Commission may add to or modify conditions of approval to this Use Permit or Outdoor Dining Permits or recommend to the City Council the revocation of this Use Permit or Outdoor Dining Permits, upon a determination that the operation which is the subject of this Use Permit or Outdoor Dining Permits, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
35. This Use Permit and Outdoor Dining Permits shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code.

CITY OF NEWPORT BEACH

June 8, 1995

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operation which is the subject of this use permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

- 19. This use permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

Use Permit No. 3328 (Amended) (Public Hearing)

Item No.3

Request to amend a previously approved use permit which permitted the establishment of a full service restaurant with on-sale alcoholic beverages, live entertainment and valet parking, on property located in the "Recreational and Marine Commercial" area of the Mariner's Mile Specific Plan Area. The proposed amendment involves a request change the hours of operation of the restaurant so as to allow an 11:00 a.m. daily opening for lunch, whereas the existing restaurant is not permitted to open before 5:00 p.m. daily. The proposal also includes a request to waive a portion of the additional required off-street parking.

UP3328A

Approved

LOCATION: A portion of Lot H, Tract No. 919, located at 2751 West Coast Highway, on the southerly side of West Coast Highway, at the southerly terminus of Riverside Avenue, in the Mariner's Mile Specific Plan Area.

ZONE: SP-5

APPLICANT: B. & R. Restaurants Inc. (Billy's at the Beach Restaurant), Newport Beach

OWNER: Gordon Barienbrock, Newport Beach

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The public hearing was opened in connection with this item, and Mr. Bill Craig, applicant, appeared before the Planning Commission. In response to a question posed by Chairman Gifford, Mr. Craig addressed the number of parking spaces that would be required for the daytime operation. James Hewicker, Planning Director, pointed out that Condition No. 6, Exhibit "A", states that 31 independently accessible parking spaces shall be provided on the property. Condition No. 8, Exhibit "A", states that the Planning Commission may call up the use permit if it is determined that the operation is detrimental to the community. Mr. Craig concurred with the foregoing Condition No. 6.

Mr. Gordon Barienbrock, property owner of the subject property and the adjacent property, appeared before the Planning Commission in support of the subject request. Mr. Barienbrock did not anticipate a parking problem inasmuch as Mariner's Mile currently has a high vacancy rate, and the restaurants in the area would benefit the commercial area.

There being no others desiring to appear and be heard, the public hearing was closed at this time.

Motion was made and voted on to approve Use Permit No. 3328 (Amended) subject to the findings and conditions in Exhibit "A".
MOTION CARRIED.

Findings:

1. That the proposed project is consistent with the General Plan and the Local Coastal Program, Land Use Plan, and is compatible with surrounding land uses.
2. The project will not have a significant environmental impact.
3. The existing parking areas are located so as to be useful to the daytime operation of the restaurant.

Motion
Ayes
Absent

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4. That the daytime parking demand for the office uses on the property has been demonstrated to be lower than the number of parking spaces required by the Zoning Code and therefore, there is adequate daytime parking within the shared parking area in order to allow the daytime operation of the subject restaurant.
5. That the parking demand for the lunch-time operation of the restaurant will be reduced inasmuch as a portion of the lunch-time patrons of the restaurant will be walk-in customers from nearby office and commercial developments.
6. The approval of Use Permit No. 3328 (Amended) will not, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions:

1. That the proposed project shall be in substantial conformance with the approved site plan and floor plans, except as noted below.
2. That all previously applicable conditions of approval of Use Permit No. 3328 shall be fulfilled unless otherwise provided in this approval.
3. That the hours of operation of the restaurant shall be limited between the hours of 11:00 a.m. and 2:00 a.m. daily.
4. That this approval for the daytime operation of the subject restaurant is contingent upon the subject property and the adjacent property to the west remaining in the same ownership. Should one or both of the properties be sold so as not to be in the same ownership, this use permit shall be subject to review by the Planning Commission to insure that adequate parking arrangements are maintained for the restaurant.

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5. That a valet parking service shall be provided during the daytime operation of the subject restaurant, and shall be subject to further review by the City Traffic Engineer.
6. That the potted plants located within the area shown as Parking Space No. 3 on the site plan shall be removed so as to provide 31 independently accessible parking spaces on the property.
7. That the applicant shall obtain Coastal Commission approval of this application prior to the opening of the restaurant at 11:00 a.m. daily.
8. That the Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
9. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

* * *

Variance No. 1206 (Public Hearing)

Request to permit alterations and additions to an existing single family dwelling on property located in the R-1 District, which will exceed the allowable 1.5 times the buildable area of the site. The proposal also includes a modification to the Zoning Code so as to allow the proposed additions to encroach one foot 3 inches into the required 20 foot front yard setback and 6 feet into the required 10 foot rear yard setback. The existing building encroaches 5 feet into the required 20 foot front yard setback, and 6 feet into the required 10 foot rear yard.

Item No.4

V1206

Approved

January 5, 1989

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	<p>Motion was voted on to deny Use Permit No. 3070 (Amended) subject to the findings in Exhibit "B". MOTION CARRIED.</p> <p><u>FINDINGS:</u></p> <ol style="list-style-type: none"> 1. That the proposed addition of baking and service of sandwiches to the take-out restaurant represents an intensification of use that will result in an increased parking demand for the area. 2. That existing problems with the unkempt sidewalk and storage of trash will be aggravated by the intensified use. 3. That the approval of this amendment to Use Permit No 3070 will, under the circumstances of this case, be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing or working in the neighborhood or to the general welfare of the City. 	
	<p><u>A. Traffic Study No. 52 (Public Hearing)</u></p> <p>Request to approve a traffic study in connection with a restaurant in the "Recreation and Marine Commercial" area of the Mariner's Mile Specific Plan.</p> <p style="text-align: center;">AND</p> <p><u>B. Use Permit No. 3328 (Public Hearing)</u></p> <p>Request to permit the establishment of a nighttime only restaurant with on-sale alcoholic beverages, live entertainment and valet parking on property located in the "Recreational and Marine Commercial" area of the Mariner's Mile Specific Plan. The proposal also includes a request to approve an off-site parking agreement for a portion of the required off-street parking to be located in the Mariner's Mile Commercial Center, at 2700 West Coast Highway.</p> <p>LOCATION: A portion of Lot H, Tract No. 919, located at 2751 West Coast Highway, on the southerly side of West Coast Highway at the southerly terminus of Riverside Avenue (restaurant site); and Parcel 2,</p>	<p><u>Item No.6</u></p> <p><u>TS No.52</u></p> <p><u>UP3328</u></p> <p><u>Approved</u></p>

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	<p>Parcel Map 73-23, located to the rear of 2700 West Coast Highway on the northerly side of West Coast Highway (off-site parking lot) in the Mariner's Mile Specific Plan Area.</p> <p>ZONE: SP-5</p> <p>APPLICANTS: James and Sharon Carter, Anaheim</p> <p>Commissioner Winburn requested a report from staff regarding the Harbor Permit approved for the subject site. James Hewicker, Planning Director, reported that the Harbor Permit that was approved for boat slips bayward of the subject property included boats within those slips that are for sale through yacht brokerages, or used by the businesses on the premises. He explained that the existing Harbor Permit does not allow any of the boat slips to be rented or leased to private boat owners.</p> <p>Discussion ensued between Commissioner Person, Mr. Hewicker, and Bill Laycock, Current Planning Manager, regarding the 32 on-site parking spaces and related off-site parking spaces required for the nighttime restaurant, based on one parking space for each 40 square feet of "net public area". Commissioner Person emphasized that a primary concern is to be certain that no valets park customers' automobiles on the northerly side of West Coast Highway, and he wanted the applicant to be aware of the seriousness of his concern. Commissioner Person forewarned the applicant that if he observed a valet crossing West Coast Highway that he would immediately call up the use permit for revocation. He commented that valets from at least one restaurant are shuffling automobiles across West Coast Highway and that said restaurant is not subject to a use permit.</p> <p>The public hearing was opened in connection with this item, and Mr. James A. Carter, applicant, appeared before the Planning Commission. Mr. Carter stated that he concurs with the findings and conditions in Exhibit "A" with the exception of Condition No. 21 which states "that a 10 foot wide easement be granted to the City along the bay frontage...", and he explained how "sawtoothing" the glass facade of the building enhanced the design of the building which would reduce the easement to between eight and ten feet, wherein he requested that said condition be modified.</p>	

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In reference to Condition No. 16, which states "that all signs shall conform...", Mr. Carter requested that "new" be inserted; however, he said that the existing sign could be refurbished.

In reference to Condition No. 6 requesting a revised parking plan, Mr. Carter explained that the parking lot was restriped two years ago, and when the applicants gave the six foot easement to the City there was an area that would allow additional parking. Mr. Carter requested that universal parking spaces not be required inasmuch as the original parking plan would provide an additional four compact parking spaces.

In reference to Condition No. 8, Mr. Carter requested that the subject restaurant be open for lunch on Saturdays and Sundays inasmuch as The Chart House Restaurant is closed for lunch on weekends and additional parking is available. In response to questions posed by Mr. Hewicker, Mr. Carter replied that he could provide an off-site parking agreement inasmuch as he is half-owner of the adjacent property. Mr. Hewicker commented that the applicant would be required to provide an off-site agreement that meets the requirements of the City. Mr. Carter stated that he intends to park all of the customers' automobiles onsite on weekends for brunch, and that employee parking would probably be offsite.

In response to a question posed by Commissioner Person, Mr. Carter replied that a valet service will manage the valet operation. Mr. Carter stated that the applicants will police the operation to be certain that the valets do not cross West Coast Highway. Commissioner Person emphatically expressed his comments that it is not in the best interests of the applicants or the community-at-large that the valets cross West Coast Highway.

In response to questions posed by Commissioner Winburn regarding the Harbor Permit that is in existence and the number of yachts that are maintained for the yacht brokerages, Mr. Carter replied that all of the yachts that are bayward of the property are with yacht brokerages; however, there are some boats that dock there and park offsite. Commissioner Winburn referred to Condition No. 27 which states that "...the applicant shall obtain the required harbor permits and provide75 parking spaces for each marina boat slip and .75 parking spaces for each 25 feet of available mooring space..". In response to Commissioner Winburn's

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statement that no boat charters would be permitted onsite, Mr. Carter assured the Planning Commission that the situation would be taken care of immediately.

Mr. Jim Lester, an associate of Burke-Lester, 77 Sea Island, appeared before the Planning Commission on behalf of the applicant. Mr. Lester described the revised parking layout that had been reviewed by staff, and he stated that the universal parking requirements could be met; however, he said that four compact parking spaces would be lost which the applicant would like to maintain. Discussion ensued between Mr. Lester and Chairman Pomeroy regarding the configuration of the parking layout which is where said compact parking spaces would be lost if universal parking spaces were established. Commissioner Person concluded that the parking layout be refined using the universal parking spaces to the satisfaction of the Traffic Engineer in accordance with Condition No. 6.

Commissioner Person suggested that he would like to set for a discussion item or a study session the concept of a use permit requirement for all boat charters operating from upland uses inasmuch as said operations could be associated with traffic and parking circulation problems. Commissioner Di Sano concurred with Commissioner Person's recommendation.

Mr. Sid Sofer, 900 Arbor Street, Costa Mesa, appeared before the Planning Commission to state that the City's stringent parking requirements, including in-lieu parking fees, is not only going to affect new restaurants but will affect established restaurants. Mr. Sofer referred to the staff report's comments regarding the requirement of dedication of land adopted by the Coastal Commission, and he commented that he has always opposed said dedication.

Mrs. Gail Demmer, 2812 Cliff Drive, representing the Newport Heights Community Association, appeared before the Planning Commission to state that said Association supports the proposed project inasmuch as the restaurant meets the Traffic Phasing Ordinance requirements and parking requirements.

Dr. Jan VanderSloot, 2221 - 16th Street, appeared before the Planning Commission to state his concerns regarding discrepancies in the Traffic Study and the ICU as it relates to the subject restaurant. Don Webb, City Engineer, responded to Dr. VanderSloot's concerns as

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	<p>follows: he said that the General Plan Amendment calculations indicated 1987 data, and that the 0.98 p.m. ICU at the intersection of West Coast Highway and Riverside Avenue is incorrect inasmuch as the consultant counted two critical moves together instead of counting them separately. Mr. Webb stated that the ICU should be 0.78, which is .02 higher than 0.76 used in the current Traffic Report which is the latest traffic count. Mr. Webb explained that the 0.98 vs. 0.78 does not affect the General Plan because the information was not carried forward to 2010 data inasmuch as that was figured separately. In reference to the total number of project volumes shown to be 17 trips as opposed to 27 trips, Mr. Webb stated that the 10 trips not shown would be trips that would be exiting the site, all in the northbound leg, which is a non-critical move. He stated that the changed a number from .01 to .02 was not a change in the ICU because it is a non-critical movement, it is moving at the same time as a critical movement, and that the ICU shown is correct at 0.89. Mr. Webb commented that the information submitted is not in error, that the calculations and all of the data shown have deficiencies but would not affect the overall number used.</p> <p>There being no others desiring to appear and be heard, the public hearing was closed at this time.</p> <p>Mr. Webb referred to Condition No. 16 regarding signs, and he explained that Standard 110-L is used by the Public Works Department to be certain that there is adequate sight distance at driveways. He commented that if the sign impairs the sight distance, it would need to be corrected.</p> <p>Discussion ensued between Chairman Pomeroy, Commissioner Merrill, and Mr. Webb regarding Condition No. 21 so as to maintain the requested 10 foot wide easement but to also permit the encroachment of the sawtooth windows.</p> <p>Motion was made to approve Traffic Study No. 52, Use Permit No. 3328 and the Off-Site Parking Agreement subject to the findings and modified conditions in Exhibit "A". Commissioner Di Sano addressed the traffic study as it was presented by Dr. VanderSloot and Mr. Webb, and he made the following modifications to conditions of the use permit. Condition No. 8: approval of an off-site parking agreement on the property adjacent to the subject property if validated by the City, and to permit the applicant to open for brunch on Saturdays and Sundays when parking is available.</p>

Motion

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Following discussion regarding how Condition No. 21 could be revised to permit the sawtooth design as requested by the applicant and to permit an additional encroachment, the condition was amended to state "that an 8 foot to 10 foot wide easement be granted to the City for public access and to also accommodate the proposed design of the sawtooth building..." Following discussion regarding boat charters, Condition No. 27 was modified to state that "boat charters bayward of the site shall not be allowed without the approval of an amendment to this use permit."

Commissioner Merrill stated that he would not support the motion and he expressed his concerns regarding the concentration of restaurants in Mariner's Mile, and he pointed out the similarity of the hours of operation to other restaurants in the area. Commissioner Merrill referred to restaurant row on La Cienega Boulevard in Los Angeles and he commented that the congestion choked some of the restaurants out of business because it became almost impossible for the traffic to circulate. He commented that the trend appears to be that an office site that is used during the day will also be used for a nighttime restaurant inasmuch as there would be available parking. Commissioner Merrill suggested that the restaurants spread out throughout the City inasmuch as they are a good tax revenue.

Motion was voted on to approve Traffic Study No. 52, Use Permit No. 3328 and the Off-Site Parking Agreement subject to the findings and conditions in Exhibit "A", as previously modified. MOTION CARRIED.

A. Traffic Study No. 52

Findings:

1. That a traffic study has been prepared which analyzes the impact of the proposed project on the peak hour traffic and circulation system in accordance with Chapter 15.40 of the Newport Beach Municipal Code and Council Policy S-1.
2. That the traffic study indicates that the project-generated traffic will neither cause nor make worse an unsatisfactory level of traffic on any "major", "primary-modified", or "primary" street.
3. That the traffic study indicates the project-generated traffic will be greater than one percent

Ayes
No
Absent

* * * * *
* * * * *

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COMMISSIONERS

- MINIBURN
- POMEROY
- FERSON
- MERRILL
- EDWARDS
- DI SANO
- DEBAY

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	<p>of the existing traffic during the 2.5 hour peak period on one leg of one critical intersection, but will not add to an unsatisfactory level of traffic service at the critical intersection which will have an ICU of .90 or less.</p> <p>B. <u>Use Permit No. 3328</u></p> <p><u>Findings:</u></p> <ol style="list-style-type: none"> 1. That the proposed development is consistent with the General Plan and the Local Coastal Program Land Use Plan and is compatible with surrounding land uses. 2. The proposed restaurant will not have any significant environmental impact, providing that parking demands are met. 3. The Police Department has indicated that they do not contemplate any problems. 4. The off-site parking area is located so as to be useful to the proposed restaurant use. 5. Parking on such lot will not create undue traffic hazards in the surrounding area. 6. That the applicant has entered into appropriate leases for the off-site parking spaces, which are of sufficient duration for the proposed restaurant use. 7. That adequate parking exists to serve the proposed development. 8. That the waiver of development standards as they pertain to walls, landscaping and parking lot illumination will not be detrimental to the adjoining properties. 9. That the hours of operation of the proposed restaurant facility and the existing remaining office uses are such as to allow joint use of the on-site parking area. 10. That the proposed modification to the Zoning Code so as to permit valet parking will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort,

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and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City and further that the proposed modification is consistent with the legislative intent of Title 20 of the Municipal Code.

11. The approval of Use Permit No. 3328 will not, under the circumstances of this case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

Conditions

1. That development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted below.
2. That an off-site parking agreement shall be approved by the City Council, guaranteeing that a minimum of 20 parking spaces shall be provided to the rear of 2700 West Coast Highway, on property located on Parcel 2, Parcel Map 73-23 for the duration of the subject restaurant use.
3. That valet parking service may be provided in conjunction with the proposed restaurant's hours of operation. However, at least 4 on-site parking spaces shall be designated for self-parking and shall be identified in a manner acceptable to the City Traffic Engineer.
4. That the off-site parking area shall be used for employee parking only and that all employees shall park in the off-site parking location. A sign informing employees of this requirement and the location of the off-site parking shall be kept posted on the employee bulletin board.
5. That no compact parking spaces shall be permitted within the proposed development, unless otherwise approved by the City Traffic Engineer.
6. That the on-site parking, vehicular circulation and pedestrian circulation systems shall be subject to further review by the City Traffic Engineer, to

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include the design and operation of the valet parking service. The applicant shall also prepare a revised parking plan which is consistent with the newly adopted universal parking design standards. Said parking plan shall be subject to the approval of the City Traffic Engineer.

7. That a minimum of one parking space for each 40 square feet of "net public area" shall be provided for the proposed restaurant.
8. That the hours of operation for the proposed restaurant shall be limited between 5:00 p.m. and 2:00 a.m. daily. The applicant shall record a covenant against the property, the form and content to be approved by the City Attorney, which will guarantee that all nighttime on-site parking shall be for the exclusive use of the subject restaurant, and that all other uses on the site will be closed after 5:00 p.m. The restaurant facility may also be open for brunch on Saturdays and Sundays, provided that an off-site parking agreement is approved by the City Council guaranteeing that the required additional parking spaces are provided on the adjoining property located at 2801 West Coast Highway for the duration of the subject restaurant use.
9. That all mechanical equipment and trash areas shall be screened from West Coast Highway or adjoining properties.
10. That kitchen exhaust fans shall be designed to control odor and smoke to the satisfaction of the Building Department.
11. That a washout area for refuse containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department.
12. That grease interceptors shall be installed on all fixtures in the restaurant facility where grease may be introduced into the drainage systems in accordance with the provisions of the Uniform Plumbing Code, unless otherwise approved by the Building Department.

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	<p>13. That a trash compactor shall be installed in the restaurant facility.</p> <p>14. That no dancing shall be permitted unless an amendment to this use permit is approved by the Planning Commission.</p> <p>15. That all mechanical equipment shall be sound attenuated to 55 dBA at the property lines.</p> <p>16. That all signs shall conform with Chapter 20.06 of the Newport Beach Municipal Code, and shall conform to Std. 110-L.</p> <p>17. That the development standards as they pertain to walls, landscaping and parking lot illumination shall be waived.</p> <p>18. That arrangements be made with the Public Works Department in order to guarantee satisfactory completion of the public improvements, if it is desired to obtain a building permit prior to completion of the public improvements.</p> <p>19. That the intersection of the private drive and West Coast Highway be designed to provide sight distance for a speed of 45 miles per hour. Landscape, walls and other obstruction shall be considered in the sight distance requirements. Landscaping and walls within the sight line shall not exceed twenty-four inches in height.</p> <p>20. That a condition survey of the existing bulkhead along the bay side of the property be made by a civil or structural engineer, and that the bulkhead be repaired in conformance with the recommendations of the condition survey and to the satisfaction of the Building Department and Marine Department. The top of the bulkhead is to be a minimum elevation of 9.00 above M.L.L.W. (6.27 MSL).</p> <p>21. That an 8 foot to 10 foot wide public easement be granted to the City for public access so as to accommodate the proposed design of the sawtooth building along the bay frontage, so as to provide unobstructed public access across the entire project. Said easement shall be improved with a concrete sidewalk or other materials meeting the approval of the Public Works Department.</p>	

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- 22. That a 6 foot wide easement be granted to the City along the easterly side property line between West Coast Highway and the bay in order to provide unobstructed public access to the bay. Said easement shall be improved with a concrete sidewalk or other material meeting the approval of the Public Works Department with signs to inform the public of its existence.
- 23. That the entrance drive be reconstructed to conform to City Std. 166-L. This work will require a Caltrans Encroachment Permit.
- 24. That the required number of handicapped parking spaces shall be designated within the on-site parking area and shall be used solely for handicapped self parking and shall be identified with one handicapped sign on a post for each handicapped space.
- 25. That the applicant shall obtain Coastal Commission approval of this application prior to the issuance of building permits.
- 26. That no outdoor sound or paging system shall be utilized on-site and all music from the live entertainment shall be confined to the interior of the building and all doors and windows shall be closed while the live entertainment is performed.
- 27. That no commercial, marina operated, boat docking facilities shall be permitted bayward of the site unless the applicant shall obtain the required harbor permits and provide the necessary upland support facilities i.e., restroom facilities for the boat slip users and .75 parking spaces for each marina boat slip and .75 parking spaces for each 25 feet of available mooring space not classified as a slip. Boat charters shall not be allowed bayward of the property unless an amendment to this use permit is approved.
- 28. That the Planning Commission may add to or modify conditions of approval to this Use Permit or recommend to the City Council the revocation of this Use Permit, upon a determination that the operation which is the subject of this Use Permit, causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.

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29. That this Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.80.090A of the Newport Beach Municipal Code.

* * *

~~The Planning Commission recessed at 9:00 p.m. and reconvened at 9:10 p.m.~~

* * *

Use Permit No. 3336 (Public Hearing)

Item No.7

Request to permit the establishment of an automobile cosmetic and restoration facility which will include body and fender work, painting and detailing of automobiles on property located in the M-1-A District. Said proposal also includes a request to install a paint booth and washrack for automobiles.

UP3336

Approved

LOCATION: A portion of Lot No. 812½, Newport Mesa Tract, located at 825 16th Street, on the southerly side of 16th Street between Placentia Avenue and Monrovia Avenue, in the West Newport Beach Triangle Area.

ZONE: M-1-A

APPLICANT: Steve Kouracos/Auto Cosmetic Inc., Costa Mesa

OWNERS: Tim and Steve Brookshire, Newport Beach

The public hearing was opened in connection with this item, and Mr. Steve Kouracos, applicant, appeared before the Planning Commission. Mr. Kouracos described his business as working with prototype automobiles that come from Detroit and he explained the required equipment to cast the clay and fiberglass molds. He further stated that he provides color chips to Detroit for automobiles in the far future. Mr. Kouracos stated that no wash rack is required inasmuch as he sprinkles automobiles down and chamois them off. He stated that he concurs with the findings and conditions in Exhibit "A".

In response to questions posed by Commissioner Merrill regarding Metalcrafters, Mr. Kouracos explained that as a former employee, his facility is currently adjacent to

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- 7. The proposed use of compact car spaces will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City and further that the proposed modification is consistent with the legislative intent of Title 20 of this Code.
- 8. The approval of Use Permit No. 2003 (Revised) will not, under the circumstances of this case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City.

CONDITIONS

- 1. That development shall be in substantial conformance with the approved plot plan and floor plan, except as noted below.
- 2. That an off-site parking agreement shall be approved by the City Council, guaranteeing that a minimum of 20 parking spaces shall be provided to the rear of 2700 West Coast Highway, on property located on Parcel 2, Parcel Map 73-23 for the duration of the subject restaurant use.
- 3. That valet parking service be provided at all times during the restaurant's hours of operation and that the valet service shall not park vehicles anywhere but on the subject property.
- 4. That all mechanical equipment and trash areas shall be screened from West Coast Highway or adjoining properties.
- 5. That kitchen exhaust fans shall be designed to control odors and smoke in accordance with Rule 50 of the Air Pollution Control District.

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6. That a washout area for the restaurant trash containers be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or the storm drains.
7. That grease interceptors shall be installed on all fixtures in the restaurant facility where grease may be introduced into the drainage systems in accordance with the provisions of the Uniform Plumbing Code.
8. That noise from live entertainment shall be confined to the interior of the facility.
9. That all proposed signs shall be in conformance with the provision of Chapter 20.06 of the Newport Beach Municipal Code and shall be approved by the City Traffic Engineer if located adjacent to the vehicular ingress and egress.
10. That the on-site circulation and parking system be approved by the City Traffic Engineer.
11. That all restaurant employees shall park their vehicles in the approved off-site parking location and that a sign informing employees of this requirement and the location of the off-site parking shall be kept posted on the employee bulletin board.
12. That the existing card key gate and spikes be removed from the subject property.
13. That the existing floating dry dock shall remain in operation to provide the required incentive use in conformance with the Draft Local Coastal Plan.
14. That a minimum of one parking space/250 sq.ft. of net floor area shall be provided for the office use and a minimum of one parking space/40 sq.ft. of net public area shall be provided for the restaurant use.

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15. That the restaurant facility shall not be open for business prior to 5:00 p.m. on any day.
16. That all improvements be constructed as required by Ordinance and the Public Works Department.
17. That a 10 foot wide easement be dedicated to the City for unobstructed public access across the bay side of the parcel and that the granting of which does not preempt the right of the property owner to come back at a future time with a design change for said easement.
18. That the existing telephone lines along the West Coast Highway Frontage be undergrounded.
19. That any proposed landscaping adjacent to the public right-of-way be approved by the Public Works Department.
20. That a 6 foot wide by 28 foot ± long concrete sidewalk widening be provided between the exit drive and the easterly property line.
21. That no commercial, marina operated, boat docking facilities shall be permitted bayward of the site unless the applicant shall obtain the required Harbor permits and provides the necessary upland support facilities i.e., restroom facilities for the boat slip users and .75 parking spaces for each marina boat slip and .75 parking spaces for each 25 feet of available mooring space not classified as a slip.

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Request to permit the construction of an office building and restaurant with on-sale alcoholic beverages in the Recreational Marine Commercial area of the Mariner's Mile Specific Plan Area which exceeds the basic height limit of 25 feet in the 26/35 Foot Height Limitation District and contains a greater gross floor area than .5 times the buildable area of the site. The proposal also includes a modification to the Zoning Code so as to allow the use of compact car spaces for a portion of required off-street parking and to allow proposed parking spaces to encroach into the required front setback area, valet service for the restaurant use and the acceptance of an off-site parking agreement for a portion of the required off-street parking. Said application also includes the acceptance of an environmental document.

Item #12

USE PERMIT NO. 2051

AND

AND

Request to consider a traffic study for a 22,400 sq. ft. ± combined office building and restaurant facility in the Recreational Marine Commercial area of the Mariner's Mile Specific Plan Area.

Item #13

LOCATION: A portion of Lot H, Tract 919, located at 2801 West Coast Highway, on the southerly side of West Coast Highway, westerly of Riverside Avenue, in the Mariner's Mile Specific Plan Area.

TRAFFIC STUDY

ZONE: SP-5

APPLICANT: Gordon S. Barienbrock, Newport Beach

OWNER: Same as applicant

AND

AND

Request to establish a restaurant facility with on-sale alcoholic beverages and live entertainment in a portion of the Pacifica Marina Building on Mariner's Mile, and the acceptance of an off-site parking agreement for a portion of the required parking spaces. The proposal also includes a modification to the Zoning Code so as to allow the use of compact car spaces for a portion of the required parking. Valet parking is also proposed in conjunction with the proposed development.

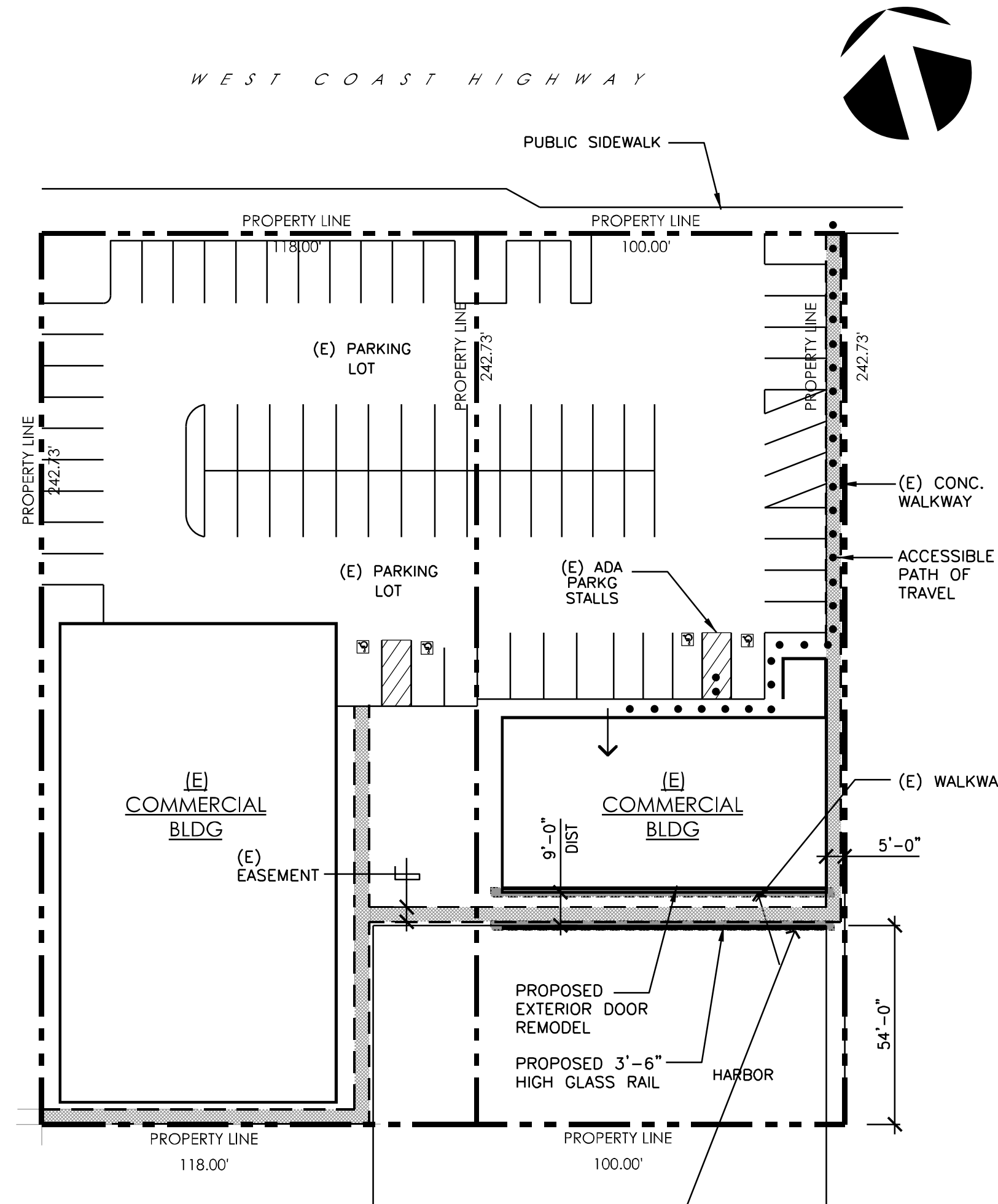
Item #14

USE PERMIT NO. 2003 (Revised)

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Attachment No. CD 4

Project Plans



AREA OF PROPOSED WORK
 (HATCHING) KEEP WORK CLEAR OF EASEMENT

SITE PLAN NOTES

1. NO ABRUPT CHANGES IN ELEVATION ALONG THE PATH OF TRAVEL SHOWN. THE SLOPE ALONG THE PATH OF TRAVEL SHALL NOT EXCEED 5% AND 2% CROSS SLOPE. (FIELD VERIFY)
2. THE ENTRANCE DOORS, LEADING TO THE PROPOSED AREA OF REMODEL COMPLY WITH THE HANDICAP ACCESS REQUIREMENTS. INSPECTOR TO VERIFY.
3. AN ADDITIONAL SIGN STATING "\$250 MINIMUM FINE" BELOW THE SYMBOL OF ACCESSIBILITY WILL BE PROVIDED. ss(1129B.4)
4. THE BORDER OF THE ACCESS AISLE SHALL BE PAINTED BLUE.
5. AFFIX AN INTERNATIONAL ACCESSIBILITY SYMBOL ON ALL ACCESSIBLE ENTRANCES.
6. CONSTRUCTION IN THE PUBLIC RIGHT OF WAY AND PROJECTION BEYOND THE PROPERTY LINE/S OR INTO THE ALLEYS SHALL COMPLY WITH CBC CHAPTER 32.
7. PEDESTRIANS SHALL BE PROTECTED DURING CONSTRUCTION, REMODELING AND DEMOLITION ACTIVITIES AS REQUIRED BY CALIFORNIA BUILDING CODE CHAPTER 32. s(3306)

SITE PLAN SCALE: 1/32" = 1'-0"

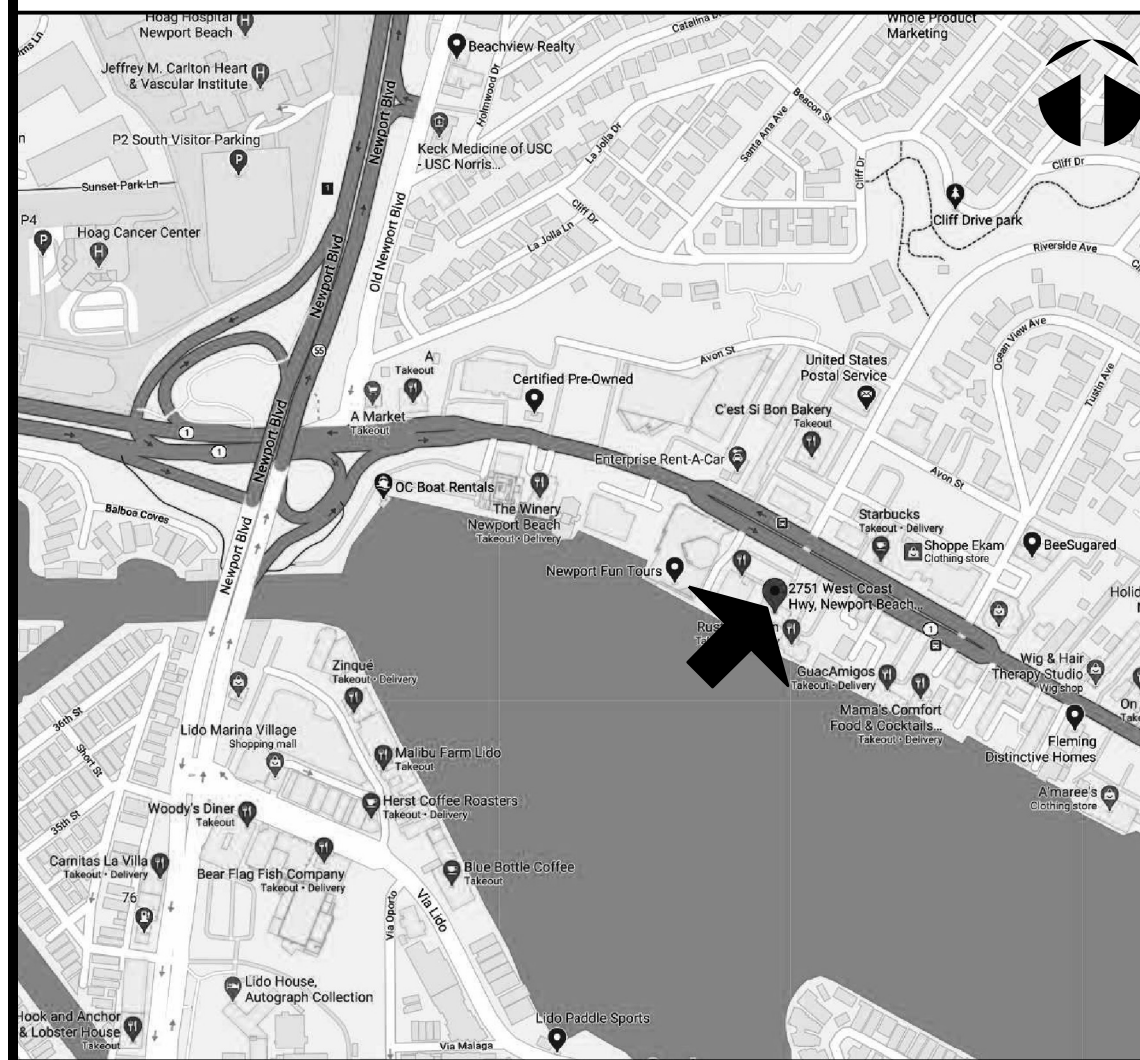
PROJECT DATA

SITE ADDRESS	BILLY'S AT THE BEACH 2751 West Coast Hwy Newport Beach, CA 92663
OWNER	REDWOOD WEST (949) 945-2644
LEGAL	TR--0, LOT -- APN:

SCOPE OF WORK

REPLACE EXISTING STOREFRONT AT REAR WALL WITH NEW OPERABLE STOREFRONT
 INSTALL NEW 42" HIGH GLASS WINDSCREEN AT REAR SIDE

VICINITY MAP



SHEET INDEX

A1	SITE PLAN
A2	FLOOR PLAN, REAR ELEVATION
S1	GUARDRAIL STRUCTURAL DETAIL, NOTES, SECTION

APPLICABLE CODES

2019	CALIFORNIA BUILDING CODE (CBC)
2019	CALIFORNIA PLUMBING CODE (CPC)
2019	CALIFORNIA MECHANICAL CODE (CMC)
2019	CALIFORNIA ELECTRICAL CODE (CEC)
2019	CALIFORNIA GREEN BUILDING STANDARDS CODE (CGBSC)
2019	CALIFORNIA ENERGY CODE (CENC)

CONSTRUCTION

TYPE OF CONSTRUCTION	VB
OCCUPANCY GROUP	A2
SPRINKLED:	YES
STORIES:	2

NOTES

1. VERIFY ALL DIMENSIONS, DO NOT SCALE DRAWINGS.
2. IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS ON THE SITE PRIOR TO COMMENCING WORK AND IS TO NOTIFY THE OWNER AT ONCE UPON DISCOVERY OF ANY OMISSIONS OR CONFLICTS IN THE DRAWINGS.
3. PREPARATION OF BUILDING SITE SHALL BE PER SECTION 3304 CBC (ALL STUMPS AND ROOTS SHALL BE REMOVED FROM THE SOIL TO A DEPTH OF AT LEAST 12 INCHES BELOW THE SURFACE OF THE GROUND TO BE OCCUPIED BY THE BUILDING)

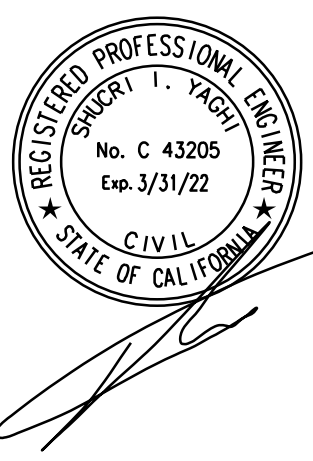
E.O.R.

STRUCTURAL CONSULTANT	SHUCRI I. YAGHI 112 E. CHAPMAN AVE SUITE "D" ORANGE, CA 92866 PH (714) 997 9120 FX (714) 744 3676
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SPECIAL INSPECTIONS REQUIRED

EPOXY BOLT INSTALLATION FOR HOLDOWN AND ANCHOR BOLTS INTO EXISTING FOOTING. ICC ESR 2508

SHUCRI (CHUCK) YAGHI
STRUCTURAL ENGINEERING
 112 E. CHAPMAN AVE SUITE D
 ORANGE, CA 92866 PH. 714-997-9120
 yaghi-engineers@live.com



CONTRACTOR OWNER
REDWOOD WEST
 (949) 945-2644

PROJECT
BILLY'S AT THE BEACH
 2751 West Coast Hwy
 Newport Beach, CA 92663

SHEET CONTENT

Revision	Date	By:
1	MAR-18-21	AL
2	PLANNING	
3		
4		
5		
6		

Date: FEB/06/2020

Scale: AS NOTED

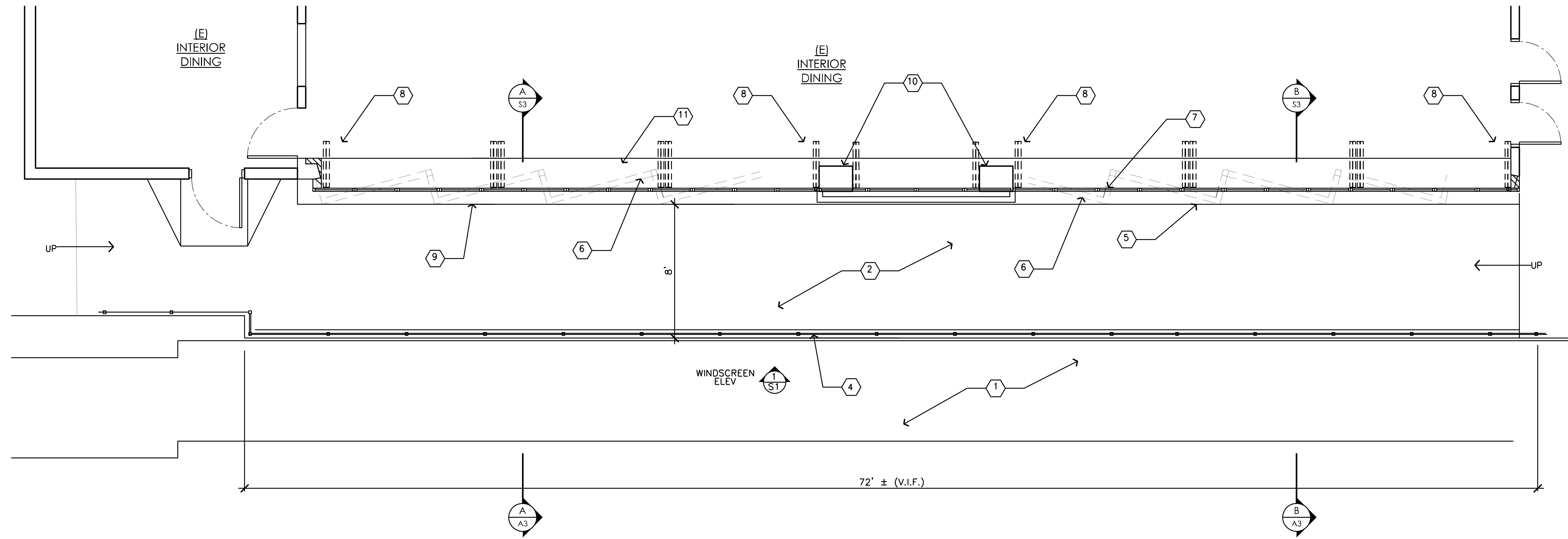
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Job: XXXXXX

File: XXXXXX

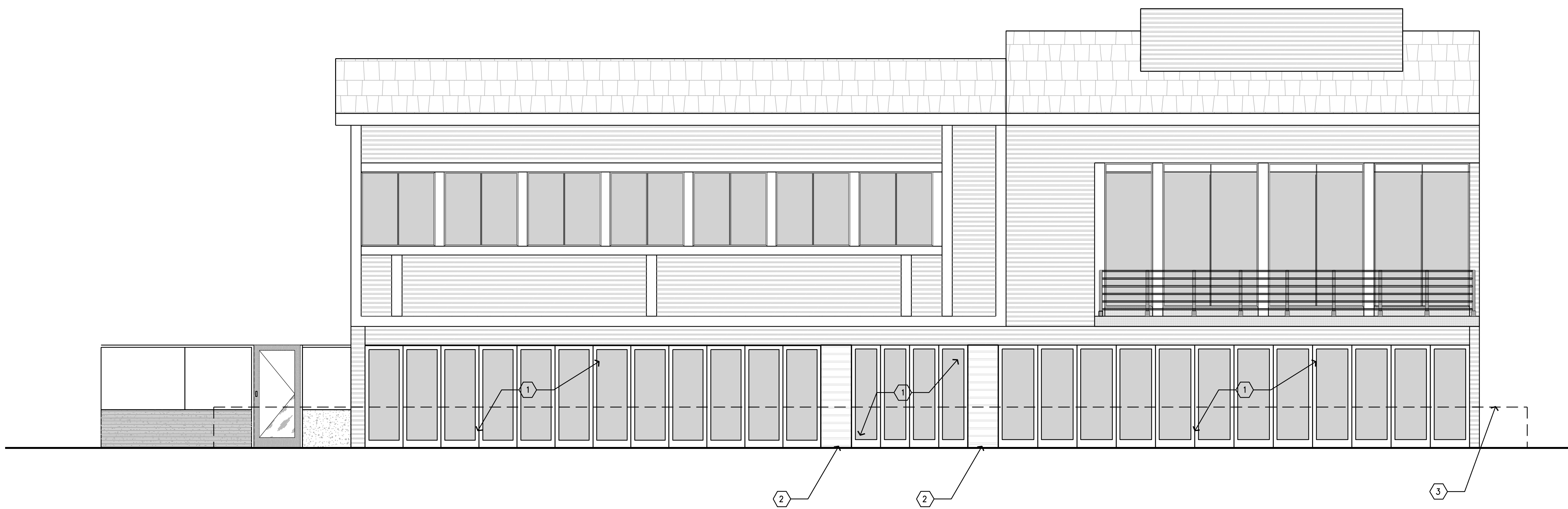
A-1

SHEET NO.



PARTIAL GROUND LEVEL FLOOR PLAN

SCALE: 1/4"=1'-0"



EXTERIOR ELEVATIONS

SCALE: 1/4"=1'-0"

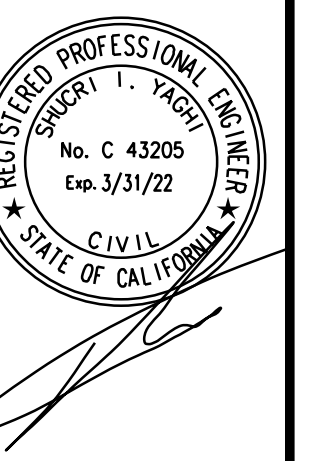
FLOOR PLAN KEY NOTES

- 1 EXISTING DOCK
- 2 (E) WALKWAY
- 3 N/A
- 4 NEW 42" HIGH TEMPERED AND LAMINATED GLASS WINDSCREEN SEE SHEET S1 FOR ADDITIONAL INFO
- 5 LINE OF WOOD SOFFIT ABOVE. NEW WOOD AT REWORKED AREAS TO MATCH EXISTING. REPLACE AND RELOCATE LIGHT FIXTURES AS NEEDED.
- 6 LINE OF EXISTING STOREFRONT TO BE REMOVED
- 7 NEW OPERABLE STOREFRONT WITH TEMPERED, DUAL PEN, LOW-E GLASS
- 8 DOOR STACKING
- 9 EDGE OF EXISTING CONCRETE CURB
- 10 EXISTING STRUCTURAL COLUMN TO REMAIN
- 11 NEW TILE

EXTERIOR ELEVATIONS KEY NOTES

- 1 REMOVE (E) STOREFRONT FOR NEW BI-FOLDING DOORS WITH TEMPERED GLASS, PER FLOOR PLAN
- 2 (E) COLUMNS TO REMAIN PER FLOOR PLAN
- 3 TRACE OF PROPOSED 42" HIGH GLASS WIND SCREEN (NEAR SIDE)

SHUCRI (CHUCK) YAGHI
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 ORANGE, CA 92666 PH. 714-987-9120
 yaghi-engineers@live.com



CONTRACTOR OWNER
REDWOOD WEST
 (949) 945-2644

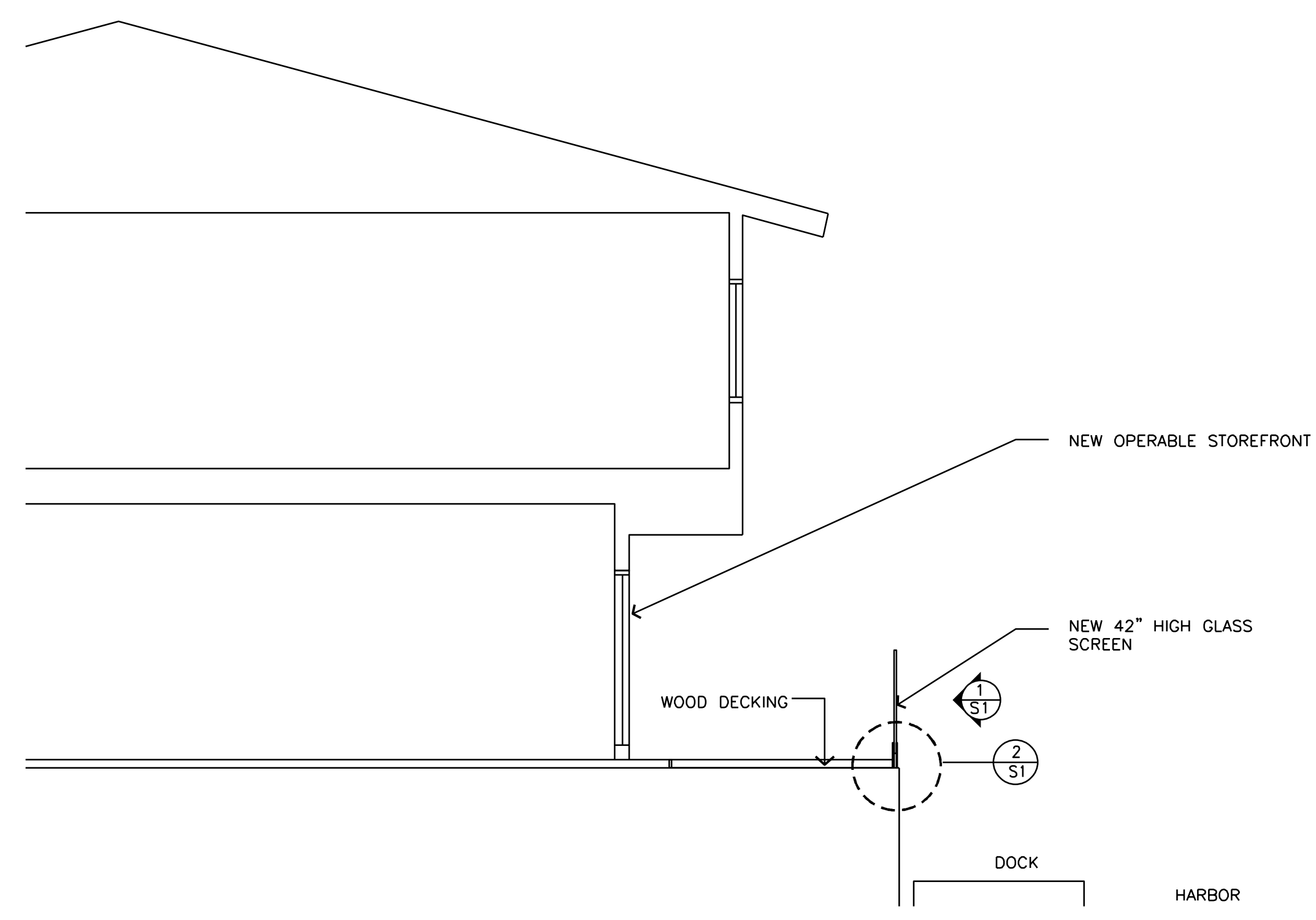
PROJECT
BILLY'S AT THE BEACH
 2751 West Coast Hwy
 Newport Beach, CA 92663

SHEET CONTENT
 FLOOR PLAN
 SITE PLAN

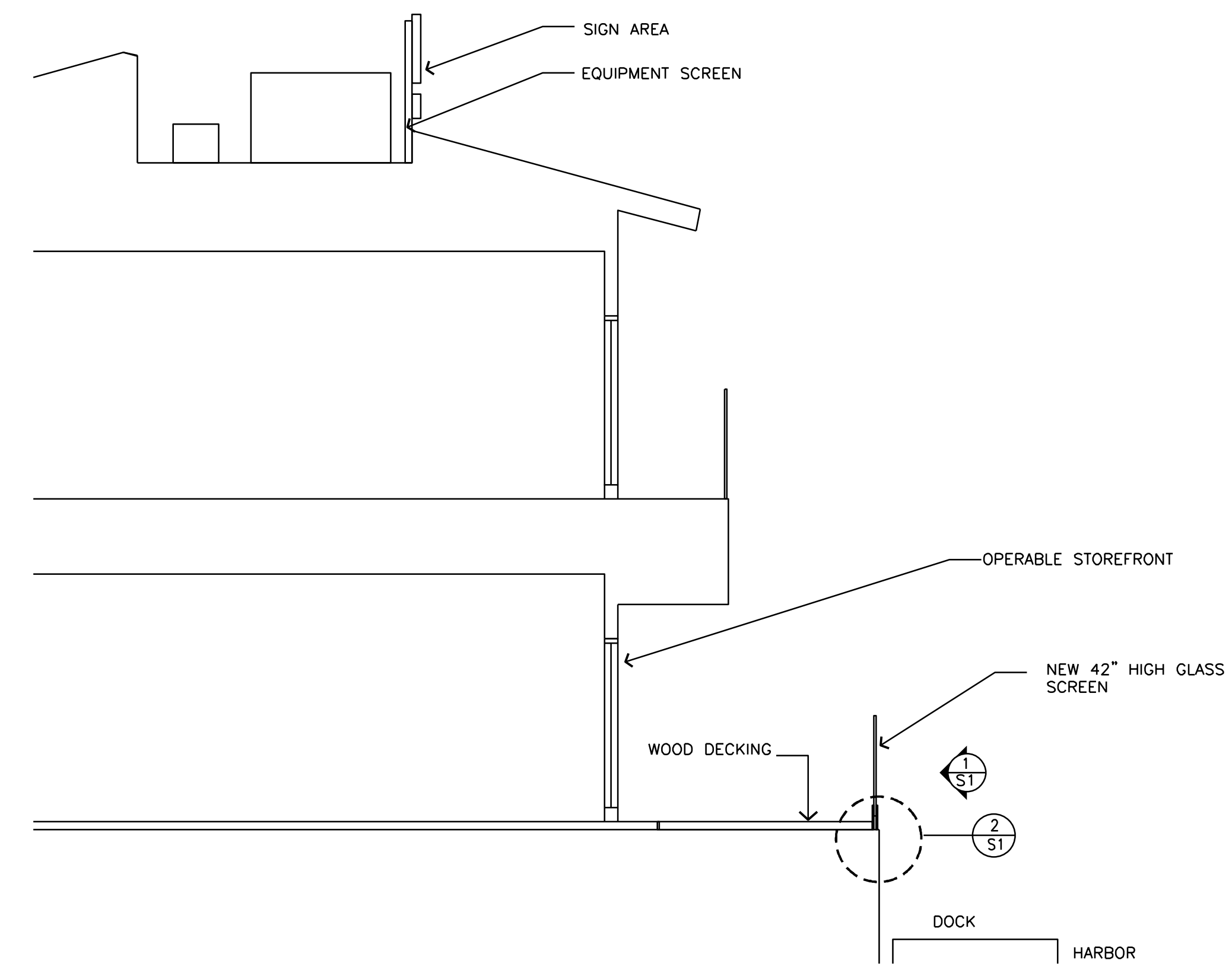
Revision	Date	By:
1	MAR-18-21	AL
2	PLANNING	

Date: FEB/06/2020
 Scale: AS NOTED
 Drawn by: AL
 Job: XXXXXX
 File: XXXXXX

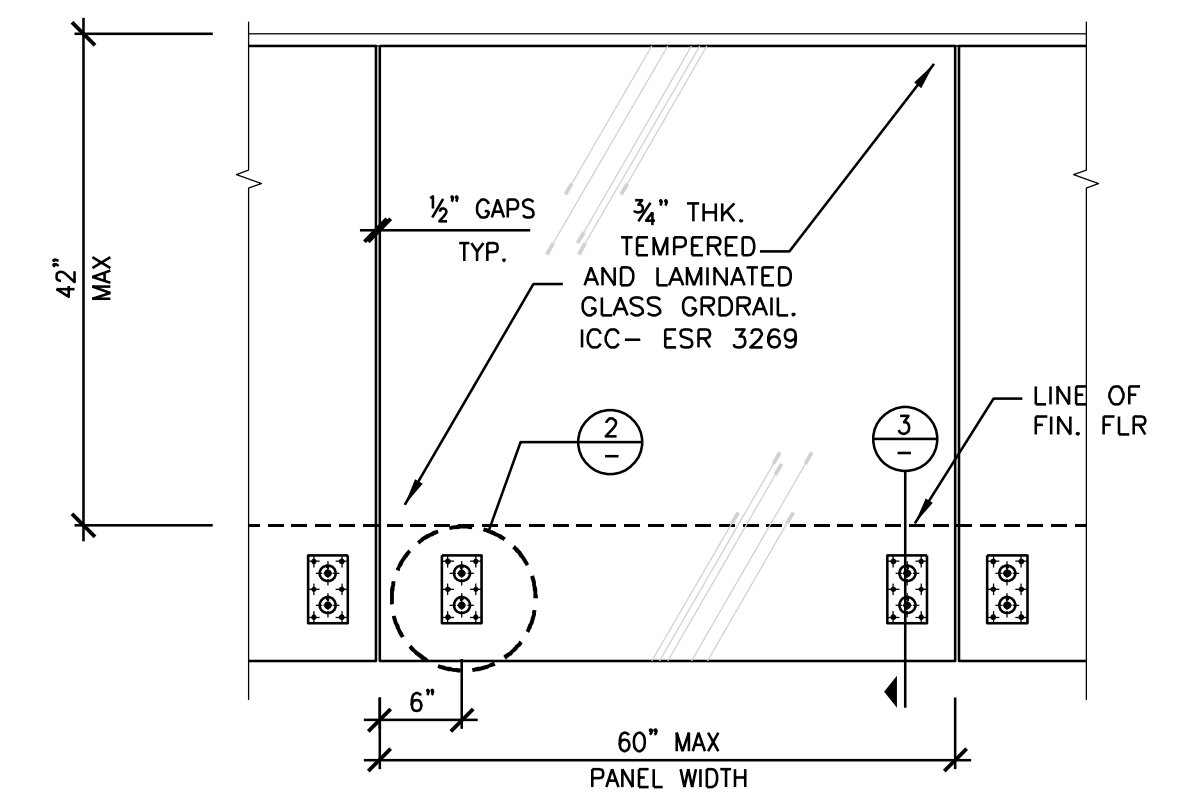
A-2
 SHEET NO.



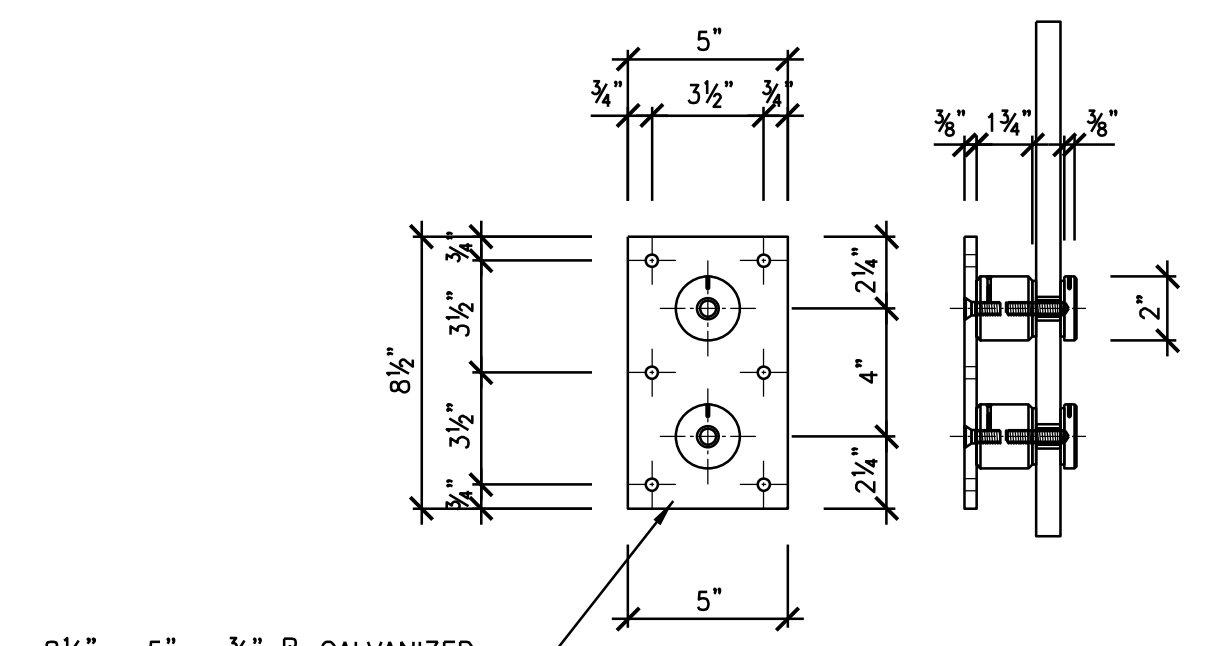
SECTION A



SECTION B

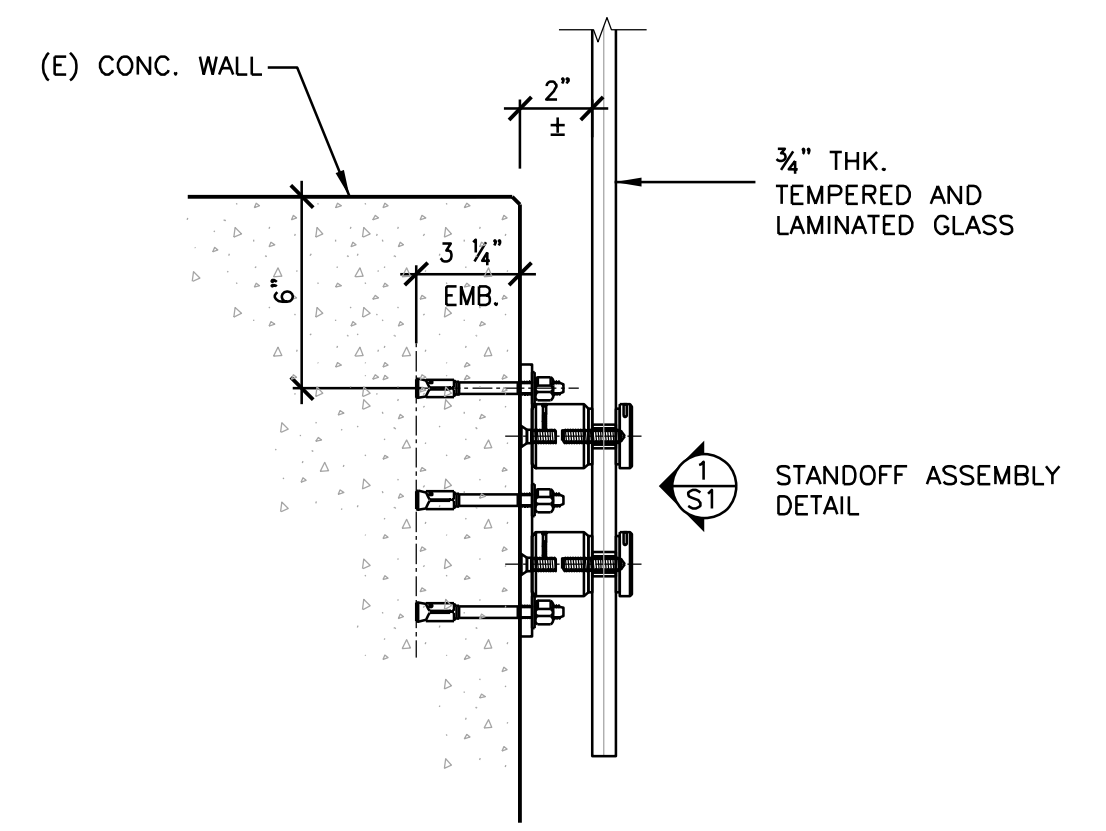


1-ST STANDOFF GLASS RAIL ELEV

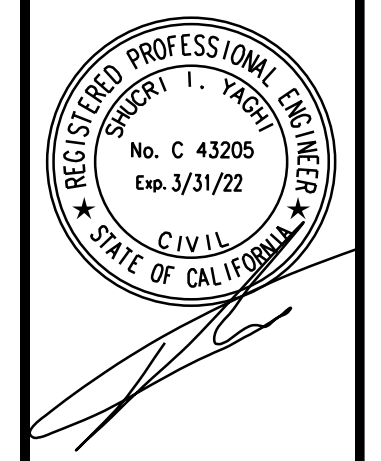


8 1/2" x 5" x 3/8" P GALVANIZED (CORROSION RESISTANT) w/ 6 - 3/8" x 3 1/4" EMBEDMENT HILTI KWIK HUS EZ-55316 ICC- ESR 3027 w/ SPECIAL INSPECTION. USE STAINLESS STEEL BOLTS

2-ST STANDOFF ASSEMBLY



3-ST STANDOFF MOUNTING DETAIL



CONTRACTOR	OWNER
	REDWOOD WEST (949) 945-2644

PROJECT

BILLY'S AT THE BEACH
 2751 West Coast Hwy
 Newport Beach, CA 92663

SHEET CONTENT

Revision	Date	By:
▲ MAR-18-21		AL
▲ PLANNING		
▲		
▲		
▲		

Date: FEB/06/2020
 Scale: AS NOTED
 Drawn by: AL
 Job: XXXXXX
 File: XXXXXX