



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 25, 2021.

ZONING ADMINISTRATOR ACTIONS JUNE 24, 2021

- Item 1: Guldjian New Office Building Lot Merger No LM2021-001 and Minor Use Permit No. UP2021-002 (PA2021-002)
Site Address: 2122 and 2132 Orchard Drive
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| Action: Approved by Resolution No. ZA2021-034 | Council District | 3 |
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- Item 2: J'Dermé Minor Use Permit No. UP2021-004 (PA2021-011)
Site Address: 3412 Via Oporto, Suite 203
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| Action: Approved by Resolution No. ZA2021-035 | Council District | 1 |
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- Item 3: 908 NB Property Management LLC. Residence Coastal Development Permit No. CD2021-003 (PA2021-013)
Site Address: 908 West Ocean Front
- | | | |
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| Action: Approved by Resolution No. ZA2021-036 | Council District | 1 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2021-034

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LOT MERGER NO. LM2021-001 AND MINOR USE PERMIT NO. UP2021-002 FOR A NEW TWO (2)-STORY OFFICE BUILDING LOCATED AT 2122 AND 2132 ORCHARD DRIVE (PA2021-002)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christopher Guildjian, with respect to property located at 2122 and 2132 Orchard Drive, and legally described as portions of Lot 131 and Lot 132 of Tract No. 706 filed in Book 21 at Page 25 of Miscellaneous Maps in the County of Orange requesting approval of a minor use permit.
2. The applicant proposes a lot merger to combine two (2) existing lots for commercial development. The project includes the demolition of two, existing non-conforming single-family dwellings and the construction of a new, two (2)-story office building totaling approximately 9,500 square feet in gross floor area and a 39-space surface parking lot.
3. The subject property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Santa Ana Heights Specific Plan (SP-7) Zoning District with a Specific Plan land use of Business Park (BP).
4. The subject property is not located within the coastal zone.
5. A public hearing was held online on June 24, 2021, observing restrictions due to the Declaration of a State Emergency and Governor's Executive Order No. N-08-21. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence (NBMC), both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) and 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. Class 15 applies to lot mergers such as this when the land is in an urbanized area, the properties are in compliance with the General Plan and Zoning with no deviations requested, all services and access to the proposed parcel are provided, the parcel was not involved in a division of a larger parcel within the two (2) previous years, and the

parcel does not have an average slope greater than 20 percent. Class 3 applies to urbanized areas for up to four (4) commercial buildings not exceeding 10,000 square feet on sites zoned for such uses in an area where all necessary public services and facilities are available, and the surrounding area is not environmentally sensitive. The proposed office building is 9,500 square feet in an urbanized area that is not environmentally sensitive.

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.

Minor Use Permit

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

Finding:

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

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the subject property as General Commercial Office (CO-G) with the maximum floor area to land area ratio ("FAR") of 0.50 (CO-G 0.50), which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. The proposed project is consistent with this designation as it is a medical office development with a 0.39 FAR.
2. The subject property is located within the Business Park District of the Santa Ana Heights Specific Plan Zoning District (SP-7/BP), which is intended to provide for the development and maintenance of professional and administrative offices, commercial uses, specific uses related to product development, and limited light industrial uses. Pursuant to Section 20.90.120 (Business Park District: SP-7/BP), general office uses are a principal permitted use subject to the approval of a minor use permit.

Finding:

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

Facts in Support of Finding:

1. The subject property is located within the Business Park District of the Santa Ana Heights Specific Plan Zoning District (SP-7/BP), which is intended to provide for the development and maintenance of professional and administrative offices, commercial uses, specific uses related to product development, and limited light industrial uses Pursuant to Section 20.90.120 (Business Park District: SP-7/BP), office uses are a principal permitted use subject to the approval of a minor use permit for newly established offices.
2. Pursuant to Section 20.90.030 (SP-7 Design Guidelines), the intent of the Santa Ana Heights Specific Plan design guidelines is to promote a consistent, high quality character of development that will result in the overall enhancement of the aesthetic character of the community. The district design guidelines emphasize building mass, building materials, building entrances, building rooflines, energy and sound to integrate into the business park area. The project includes the removal of nonconforming residential uses and consolidation of lots consistent with the CO-G and BP designations, helping to achieve the overall goal of a high-quality business park.
3. The proposed project will provide landscape buffers beyond the minimum required adjacent to nonconforming residential uses. Additionally, a 6-foot tall block wall is conditioned to be provided along these property lines. This design softens the aesthetic for the current neighbors and potential future adjacent businesses as well as screens the surface parking lot.
4. The proposed two (2)-story building is 30 feet in height, provides sufficient setbacks from all property lines, and includes an outdoor employee seating area and enhanced entrances to the building defined with metal awnings. The architectural design creates visual interest through building articulation, window treatments, and blending with landscaping. The exterior building will be earth colors with Kingspan Panels to imitate the look of stucco while maximizing the thermal efficiency of the building. The mechanical equipment, and refuse will be screened from view. A final landscape plan is conditioned to be provided prior to permit issuance to ensure the design meets the Guidelines for the Business Park District.
5. Section 20.90.120 (Business Park District: SP-7/BP) establishes the required site development standards for floor area, setbacks, and landscaping. The building provides more than the minimum required setbacks from each property line and is proposed at 0.39 FAR, where 0.50 FAR is allowed. The proposed landscaping includes trees, shrubs, and groundcover and the landscape setbacks are met or exceeded with the proposed project design.
6. Pursuant to Table 3.10 in Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), general office uses are required to provide one (1) parking space for every 250 square feet of gross floor area. The gross floor area of the proposed buildings is 9,465 square feet; therefore, the project requires 38 spaces. The proposed project

includes surface parking with 39 parking spaces; thus, the project provides a surplus of one (1) space.

Finding:

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

Facts in Support of Finding:

1. Commercial and residential uses are allowed in the vicinity, including medical and general office, retail sales, personal service, restaurant, and single-unit residential uses south of the subject property. The subject property is located among other office uses along Birch Street and north of Birch Street along Orchard Drive. Therefore, the proposed office building is compatible with the allowed uses in the vicinity.
2. The subject property as merged is a little over 0.5 acres in area (24,423 square feet), generally rectangular in shape, and located in a commercial area. The subject property is proposed to be developed with one (1)-, two (2)-story general office building. South of Birch Street along Cypress Street is SP-7 Residential Equestrian (REQ) Zoning District boundary. These homes mostly front on Cypress Street. There are a few REQ lots that face Orchard Drive. There are no REQ lots directly abutting the subject property. The REQ lots begin south of the subject property, about halfway into the block along both sides of Orchard Drive. The residential uses abutting the subject property are nonconforming uses on lots zoned SP-7/BP. Future redevelopment of these properties will be consistent with the SP-7/BP Zoning District.
3. The project design locates the two (2)-story, 30-foot high building towards the middle of the property with large setbacks from the property lines, which provide separation to ensure compatibility with the abutting properties. There are landscape buffers provided along the property lines along with a perimeter site wall that soften the view of the surface parking lot.
4. The building is proposed at 0.39 FAR, where 0.50 FAR is allowed. The 9,500-square-foot office use does not create any traffic impacts and is compatible with the allowed commercial uses in the vicinity.
5. The proposed office use will operate as a typical general office use with business office hours. The design includes two (2) floors with a main lobby, open offices, private offices, conference rooms and an employee kitchen area. The exterior includes an outdoor seating area for employees, landscaping, and enhanced entrances. Code required parking is provided ensuring that employees and visitors may park on-site. Therefore, the operating characteristics are compatible with the allowed commercial and residential uses in the vicinity.

Finding:

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

Facts in Support of Finding:

1. The project design locates the two (2)-story building towards its street frontages which provides large side and rear setbacks used for surface parking and landscaping. The site is provided 39 parking spaces, which is one (1) additional space than Orequired by the Zoning Code. Adequate trash storage facilities for the office tenants is provided in an enclosed area, thereby preventing any odor or related issues for the uses nearby.
2. The site has pedestrian and vehicular access along Birch Street and Orchard Drive. The two (2) driveways proposed will be constructed pursuant to City Standards and reviewed and approved by the Public Works Department. The provision of emergency vehicle access will continue along Birch Street.
3. All water services will be provided by the Irvine Ranch Water District and all sewer services will be provided by the Costa Mesa Sanitary District. Will serve letters from both Districts have been provided by the applicant.
4. The Public Works Department, Building Division, and Fire Department have reviewed the application. The project is required to obtain all applicable permits from the City Building and Fire Departments and must comply with the most recent, City-adopted version of the California Building Code.

Finding:

- E. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding:

1. The proposed use is similar to and compatible with other office uses in the vicinity and is not detrimental to the abutting uses due to the office nature of the business and location of the buildings on-site.
2. The proposed development is consistent with the planned land use for the site. The site is suitable for the type and intensity of development proposed because the infrastructure serving the site and surrounding area has been designed and developed to accommodate the anticipated commercial/office development use of the site. Therefore, the operation of the use is not detrimental.

3. As confirmed by the City Traffic Engineer, the proposed project does not result in a traffic impact; therefore, the operation of the proposed office use is not detrimental. The proposed driveways are located the greatest distance possible from the intersection of Birch Street and Orchard Drive promoting safe ingress and egress of the site.
4. The proposed use does not create any adverse noise impacts and is subject to the noise standards within the Municipal Code.
5. The Federal Aviation Administration has conducted an aeronautical study and concluded the proposed project would not be a hazard to air navigation.
6. Adequate trash storage facilities for the office tenants are provided in an enclosure area, thereby preventing any odor or related issues for the abutting residential uses.
7. Compliance with the Municipal Code and the conditions of approval is required and will further ensure that the proposed use will not be detrimental.

Lot Merger

In accordance with Sections 19.68.030 (Lot Mergers) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed lot merger to combine two (2) existing parcels by removing the interior lot lines between them will not result in the creation of additional parcels.
2. The project is in an area with an average slope of less than 20 percent.
3. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions).
4. Any future development on the proposed parcel will be subject to the Zoning Code development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

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

Fact in Support of Finding:

1. The two (2) lots to be merged are under common fee ownership.

Finding:

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

Facts in Support of Finding:

1. The merged parcels will retain the Santa Ana Heights Business Park (SP-7/ BP) zoning designation, consistent with the surrounding area. The SP-7/BP Zoning District is intended to provide areas appropriate for office and commercial development located on a single parcel. The SP-7/BP Zoning District encourages consolidation of smaller single parcels within the business park area to provide for more flexibility in the design of office development, thereby enhancing the aesthetic character and cohesiveness of the development.
2. The existing parcels include portions of Lots 131 and 132 with underlying recorded lot lines that do not match the orientation or ownership of the parcels. The consolidation of the corner parcels into one (1) lot will clean-up the lot lines to match the ownership and orientation.
3. The Land Use Element of the General Plan designates the subject site designates the subject property as General Commercial Office (CO-G), which provides for administrative, professional, and medical offices with limited accessory retail and service uses. The land use will remain the same and the merger is consistent with the land use designations of the General Plan.
4. The existing parcels do not meet the minimum lot area requirements of the SP-7/BP regulations (19,800 square feet), as the individual parcels are approximately 10,950 square feet and 13,134 square feet. Merging the two (2) lots would create one (1) parcel that meets the minimum lot area requirement.
5. The Public Works Department has reviewed the proposed lot merger and has concluded it is consistent with the Subdivision Code, and conditions of approval will be included to ensure compliance with applicable provisions.

Finding:

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

Fact in Support of Finding:

1. Legal access will be provided from Birch Street and Orchard Drive. The site does not currently provide access to any other properties. Thus, no adjoining parcels will be deprived of legal access as a result of the merger.

Finding:

- J. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*
- a. Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
 - b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. Properties in the vicinity consist of lots of varying sizes. The merged lot will be more conforming in size to the other business park properties along Birch Street within the vicinity. The range in sizes of these properties is 30,000 to 95,000 square feet. The design guidelines for SP-7/BP encourage lot consolidation of the smaller properties to enhance redevelopment into conforming business park uses.
2. The proposed lot size is 24,423 square feet, which meets the SP-7/BP requirement for lot size (19,800 square feet).
3. Orientation and access to the parcel will be provided via Birch Street and Orchard Drive. Thus, the resulting lot configuration will not change the existing pattern of development in the area.

Waiver of Parcel Map

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

Finding:

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

Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot line and allow the property to be utilized as a single development site. The proposed lot would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, General Plan and the Santa Ana Heights Specific Plan (SP-7).
2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
3. The subject property is accessible from Birch Street and Orchard Drive. The site is served by all of the necessary public utilities.

SECTION 4. DECISION.**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) and 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 Lot Merger No. LM2021-001 and Minor Use Permit No. UP2021-002 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 24th DAY OF JUNE, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. Prior to the issuance of the building permit, a fair share fee shall be paid for the net change in trips from residential to office. The net change in trips is a 101 increase in trips and the fee will be calculated based on the current fee schedule at the time of permit issuance.
5. Prior to the issuance of the building permit, a transportation corridor fee shall be paid for the new non-residential structure calculated based on the current fee at the time of permit issuance.
6. Prior to the issuance of a building permit, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate the minimum required plantings required by 20.90.120 Santa Ana Heights Specific Plan Business Park District and 20.90.030 Design Guidelines. The plantings shall prioritize drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.
7. During the plan check process the applicant shall work with the Planning Division to explore other potential exterior building materials that comply with the 20.90.120 Santa Ana Heights Specific Plan Business Park District and 20.90.030 Design Guidelines, which call for a combination of materials to soften and add architectural variety and interest.
8. A minimum 6-foot-tall block wall shall be provided along the property lines adjacent to the neighboring lots and shall only be lowered towards the street sides for traffic visibility regulations and circulation safety in the parking lot.
9. The roof-top mechanical equipment shall be screened pursuant to the approved photo simulations in the revised plans distributed as additional materials on June 23, 2021.

10. Prior to building permit issuance, the exterior elevations shall be updated to match the design of the screening in the approved photo simulations distributed as additional materials on June 23, 2021.
11. Prior to final of the building, pursuant to the Federal Aviation Administration (FAA) determination of no hazard to air navigation the applicant shall e-file the required FAA Form 7460-2 Notice of Actual Construction or Alteration.
12. Minor Use Permit No. UP2021-002 and Lot Merger No. LM2021-001 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
13. This Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
14. Any future intensification of use that requires additional parking will require a parking summary and tenant improvement building permit.
15. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
16. Prior to the issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Minor Use Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
17. 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.
18. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.

19. Prior to the issuance of a building permit, the applicant shall prepare photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are “1” or less at all property lines.
20. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.

The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

22. 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.
23. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
24. No outside paging system shall be utilized in conjunction with this establishment.
25. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
26. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
27. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

28. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
29. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
30. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
31. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
32. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
33. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Guldjian New Office Building including, but not limited to, Lot Merger No. LM2021-001 and Minor Use Permit No. UP2021-002 (PA2021-002). 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.

Fire Department

34. The water supplies for automatic sprinkler systems shall comply with the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with Health and Safety Code 13114.7. For connections to public water works systems, the water supply test used for design of fire protection systems shall be adjusted to account for seasonal and daily pressure fluctuations based on information from the water supply authority and as approved by the fire code official.
35. The hydraulic calculations shall be provided in accordance with NFPA 13 to demonstrate that the available water flow and pressure are adequate to supply all sprinklers installed in any single fire area with discharge densities corresponding to the designated hazard classification.
36. The underground fire line plans shall be listed as a deferred submittal. Plans shall be submitted by a licensed C-16.
37. Fire sprinklers shall be permitted and installed with the new building.
38. All alarms, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved supervising station or, where approved by the fire code official, shall sound an audible signal at a constantly attended location.
39. All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressures and waterflow switches on all sprinkler systems shall be electrically supervised by a listed fire alarm control unit.
40. One (1) exterior approved audible device, shall be located on the exterior of the building in an approved location, and shall be connected to each automatic sprinkler system. Such sprinkler waterflow alarm devices shall be activated by a water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system.
41. Approved vehicle access for firefighting shall be provided to all construction or demolition sites. Vehicle access shall be provided to within 100 feet of temporary or permanent fire department connections. Vehicle access shall be provided by either temporary or permanent roads, capable of supporting vehicle loading under all weather conditions. Vehicle access shall be maintained until permanent fire apparatus access roads are available.
42. Approved fire apparatus access roads shall be provided for the building. The fire apparatus road shall comply with the requirements of this guideline and shall extend to within 150 feet of the building so the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. Indicate the width of each roadway/drive aisle Fire lanes shall have a minimum 20-foot clear width.
43. Roads must be constructed of a material that provides an all-weather driving surface and capable of supporting 72,000 pounds-imposed load for fire apparatus and truck outrigger loads of 75 pounds per square inch over a two (2)-foot area. Calculations

stamped and signed by a Registered Professional Engineer (RPE) shall certify that the proposed surface meets the criteria.

44. All fire apparatus access roads shall have an unobstructed width of not less than 20 feet and shall not be less than 26 feet within 30 feet of a fire hydrant, except when the road passes through approved security gates in accordance with Section 503.6 roads shall have an unobstructed vertical clearance of not less than 13 feet, 6 inches.
45. The gradient for access roads shall not exceed 10 percent.
46. The approach to fire access roads shall be constructed in accordance with the City of Newport Beach Design Criteria for Public Works Construction manual.
47. All multi-unit residential and commercial buildings shall have numbers or addresses placed above or immediately adjacent to all doors that allow fire department access. In no case shall the numbers be less than six (6) inches in height with a one (1)-inch stroke. Address numbers shall contrast with their background and shall be either internally or externally illuminated to be visible at night.

Building Division

48. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
49. Accessible parking shall be located in the shortest distance to the entry of the building.
50. The curb ramp shall comply with Section 11B-406 with no abrupt drop-off or elevation changes on the ramp or path of travel leading up to the ramp.
51. The roof hatch that is less than 10 feet from the edge of the building shall be protected with a 42-inch tall guardrail.
52. A minimum 4-foot clearance is required to be maintained in front of the access to the water closet.
53. Justification shall be provided to support plumbing fixture quantities.
54. Roof-top mechanical equipment and access areas shall provide minimum required work clearances.
55. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two (2) feet of freeboard.
- Pave or apply water four (4) times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two (2) hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment

Off-Site Impacts

- Encourage car pooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six (6)-inch surface layer, subject to review/discretion of the geotechnical engineer.

56. The Water Quality Management Plan infiltration basin will need to have an over-flow outlet.
57. A hydrology and hydraulics analysis shall be performed. The hydrology shall analyze the 25- and 50-year storm period.
58. A list of “good housekeeping” practices will be incorporated into the long-term post-construction operation of the site to minimize the likelihood that pollutants will be used, stored or spilled on the site that could impair water quality. These may include frequent parking area vacuum truck sweeping, removal of wastes or spills, limited use of harmful fertilizers or pesticides, and the diversion of storm water away from potential sources of pollution (e.g., trash receptacles and parking structures). The Stage 2 WQMP shall list and describe all structural and non-structural BMPs. In addition, the WQMP must also identify the entity responsible for the long-term inspection, maintenance, and funding for all structural (and if applicable Treatment Control) BMPs.

Public Works Department

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59. All improvements shall be constructed as required by Ordinance and the Public Works Department.
 60. All damaged curb, gutter and sidewalk along the Birch Street and Orchard Drive frontages shall be reconstructed per City Standard. The sidewalk along Orchard Drive shall be 5-foot wide minimum.
 61. A new 36-inch box City tree shall be installed along the Orchard Drive frontage. Tree type shall be consistent with City Council Policy G-6.
 62. Project sewer improvements shall be reviewed and approved by Costa Mesa Sanitary District prior to building permit issuance. Provide documentation of approval.
 63. Project water improvements shall be reviewed and approved by Irvine Ranch Water District prior to building permit issuance. Provide documentation of approval.
 64. New sod or low groundcovers of the type approved by the City shall be installed throughout the Orchard Drive parkway fronting the development site.
 65. An encroachment permit is required for all work activities within the public right-of-way.
 66. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
 67. A 5-foot dedication for street and sidewalk purposes shall be dedicated to the City of Newport Beach along the 2132 Orchard Drive frontage.
 68. The unused driveway approaches shall be plugged per City Standard STD-185.
 69. The proposed driveways along Birch Street and Orchard Drive shall be installed per City Standard STD-160. A 4-foot wide pedestrian easement shall be dedicated to the City of Newport Beach along the Birch Street driveway.
 70. The parking layout shall comply with City Standard STD-805.

RESOLUTION NO. ZA2021-035

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2021-004 FOR PERSONAL IMAGE CONSULTING AND ANCILLARY AESTHETIC TREATMENTS, A PERSONAL SERVICES, RESTRICTED LAND USE, LOCATED AT 3412 VIA OPORTO, SUITE 203 (PA2021-011)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Heidi Linder (Applicant) with respect to property located at 3412 Via Oporto, Suite 203 and legally described as Parcel 1 of Resubdivision No. 416 seeking approval of a minor use permit.
2. The Applicant requests to establish a personal image and lifestyle consulting office within a 940-square-foot tenant space of an existing commercial office building. The Minor Use Permit is required because a portion of the tenant space would be used for ancillary aesthetic treatments (i.e., Botox injections), which is considered a Personal Services, Restricted land use.
3. The subject property is categorized Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element and is within the Mixed-Use Water (MU-W2) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is located within the Mixed-Use Water (MU-W2) Coastal Zone District.
5. The project is exempt from coastal development permit requirements because it does not meet the definition of "development" pursuant to Newport Beach Municipal Code (NBMC) Section 21.52.035.2 (Other Existing Structures). There are no improvements to the structure that result in changes in floor area, increase to parking demand, or otherwise change the general level of activity in the area.
6. A public hearing was held online on June 24, 2021, via Zoom observing restrictions due to the Declaration of a State Emergency and Governor's Executive Order No. N-08-21 related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 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. Class 1 exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.
3. Project implementation will consist of a limited tenant improvement and there would be no intensification of use beyond the existing office use.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Mixed-Use Water Related (MU-W2) General Plan and Coastal Land Use Plan land use designations apply to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. Although the property and surrounding development do not include residential uses, the consulting office project is consistent with the visitor-serving land uses intended for the Mixed-Use Water Related (MU-W2) land use designation.
2. The consulting office provides image and lifestyle services to those who live, work, and visit Newport Beach. The project would allow for continued use of the existing office space, while maintaining the character of Lido Marina Village.
3. The Circulation Element Goal 7.1 (Parking) of the General Plan is to ensure an adequate supply of convenient parking is available throughout the City. Information provided in the Lido Marina Village Parking Demand Analysis and in accordance with the approved Parking Management Program (Conditional Use Permit No. UP2014-014) demonstrates that an adequate supply of parking will be provided based upon the shared use of parking within Lido Marina Village.
4. The property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Mixed-Use Water Related (MU-W2) Zoning District applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors.
2. The business is considered a “Personal Services, Restricted” use because of the ancillary Botox injection service. The “Personal Services, Restricted” use applies to service establishments that may tend to have a blighting or deteriorating effect upon surrounding areas, such as day spas, tanning salons, and tattoo shops. The space is not considered a medical use since the Botox treatment is ancillary to the primary consulting use. The treatment area would not occupy more than 25 percent of the tenant space (or more than 235 square feet). According to Table 2-9 of NBMC Chapter 20.22 (Mixed Use Zoning Districts), a “Personal Services, Restricted” use is allowed under the MU-W2 zoning, subject to the approval of a minor use permit.
3. The consulting aspect of the business is based on personal image recommendations and client referrals to local businesses and services. Secondary to the consulting use, limited Botox treatments would be provided on-site pursuant to the Physician Assistant Practice Act. All consultations and treatments would be provided by one (1) employee, who is a licensed physician’s assistant.
4. The consulting office is consistent with the Lido Marina Village Design Guidelines. The renovation of the existing tenant space will provide a new service to Lido Marina Village.
5. An existing general office currently occupies the subject suite, but conversion to a “Personal Services, Restricted” does not change parking demand. Pursuant to Table 3-10 of NBMC 20.40.040 (Off-Street Parking Requirements), personal services and general office uses are parked at the same rate of 1 space per 250 square feet of gross floor area. Enough parking is provided with the implementation of Lido Marina Village’s Parking Management Plan approved with Use Permit No. 2014-014 and amended under Use Permit No. UP2017-019.
6. The project is consistent with the Lido Marina Village Parking Management Program authorized under Conditional Use Permit No. UP2014-014. No on-site parking is available for the property. Adequate parking is provided in the Lido Marina Village parking structure and adjacent street as authorized under the approved Parking Management Program for Lido Marina Village Conditional Use Permit No. UP2014-014.

7. The operational conditions of approval will promote compatibility with the surrounding uses. The floor plan provides a consultation and limited treatment area. The Applicant is required to maintain substantial conformance with the approved floor plan so that the business's primary use is a consulting office and not a medical office.
8. As conditioned, the proposed use will comply with all other applicable provisions of the NBMC.

Finding:

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

Facts in Support of Finding:

1. The project is located within an existing commercial building. The design, size, location, and operating characteristics of the use are compatible with the surrounding Lido Marina Village development. The proposed office is consistent with the surrounding restaurant, retail, and other office uses in the development.
2. Based on operational characteristics, the use is not considered medical land use. Ancillary Botox treatments offered constitute a small portion of the overall floor area, thereby limiting any potential blight or deterioration to the surrounding area.
3. The proposed use will not require the provision of additional parking on-site, as discussed in Fact in Support of Finding B.5
4. The design of the tenant improvements will comply with all Building, Public Works, and Fire Codes.
5. As conditioned, the allowed hours of operation are from 8 a.m. to 6 p.m., daily. This will help to limit any potential late night or early morning land use conflicts with allowed uses on nearby properties. The project provides specialized, individual consultations by appointment, and this lower type of intensity is expected to maintain compatibility with the various uses in Lido Marina Village.

Finding:

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

Facts in Support of Finding:

1. All proposed tenant improvements, with exception of signage, would be limited to the inside of the existing office building and would not affect pedestrian circulation, parking spaces, or access to existing tenants. Adequate public and emergency vehicle access is taken from Via Oporto and Central Avenue from Via Lido, public services, and utilities are provided for on-site.
2. The design of the improvements will comply with all Building, Public Works, and Fire Codes, and plans will be reviewed prior to the issuance of building permits.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. The proposed use is intended to serve residents of and visitors to Newport Beach.
2. See Fact in Support of Finding C.5.
3. A consulting office with ancillary aesthetic treatments located in Lido Marina Village would operate similarly to a standard professional office and would not constitute a hazard to the public.
4. The project includes conditions of approval to ensure that potential conflicts with the surrounding land uses and City as a whole are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots, during business hours, if directly related to the patrons of the business.
5. The proposed suite is an existing commercial office space within an existing multi-tenant building, which has been historically occupied by similar uses. The space has not proven unsuitable for this type of use.
6. The proposal has been reviewed by the Building and Code Enforcement Divisions, Public Works, Fire, and Police Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-004, 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 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF JUNE, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. *The hours of operation shall be limited to between 8 a.m. and 6 p.m., daily.*
5. *The aesthetic treatment area shall not exceed 25 percent of the tenant suite or 235 square feet.*
6. *Aesthetic treatment services shall be limited to Botox injections only. Any additional services shall be reviewed by the Planning Division and may require the processing of an amendment to this Minor Use Permit or a new use permit.*
7. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department.
8. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of NBMC Chapter 20.42 (Signs).
9. Use Permit No. UP2021-004 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 20.54.060 (Time Limits and Exceptions), unless an extension is otherwise granted.
10. This Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
11. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Use Permit or the processing of a new Use Permit.

12. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
13. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
14. All noise generated by the proposed use shall comply with the provisions of NBMC Chapter 10.26 and other applicable noise control requirements. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

15. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
16. Construction activities shall comply with NBMC Section 10.28.040, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday, and 8 a.m. and 6 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
18. The exterior of the business shall always be maintained free of litter and graffiti. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
19. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
21. Storage outside of the building in the front or at the rear of the property shall be prohibited, except for the required trash container enclosure.
22. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
23. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the NBMC.
24. 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 J'Dermé including, but not limited to, Minor Use Permit No. UP2021-004 (PA2021-011). 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

25. A building permit shall be required to authorize the ancillary Botox procedures and demonstrate compliance with all applicable Building and Safety Code requirements, including disabled access standards.

RESOLUTION NO. ZA2021-036

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-003 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED THREE (3)-CAR GARAGE LOCATED AT 908 WEST OCEAN FRONT (PA2021-013)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (Applicant), with respect to property located at 908 West Ocean Front and legally described as Lot 3 in Block 9 of Tract 234, requesting approval of a coastal development permit (CDP).
2. The Applicant proposes a coastal development permit (CDP) to allow the demolition of an existing single-family residence and the construction of a new, approximately 5,248-square-foot, three (3)-story residence including an attached three (3)-car garage. The project also includes additional appurtenances such as landscaping, hardscaping, and drainage. The design complies with all applicable development standards and no deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached – 10.0 – 19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held online on June 24, 2021, observing restrictions due to the Declaration of a State Emergency and Governor's Executive Order No. N-08-21. 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, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one (1) single-family residence and the construction of a new three (3)-story, 5,248-square-foot residence with an attached three (3)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 5,650 square feet and the proposed floor area is 5,248 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 8 feet along the property line abutting West Ocean Front, 3 feet along each side property line and 0 feet along the property line abutting the 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 project includes garage parking for a total of three (3) vehicles, complying with the minimum three (3)-car garage parking requirements for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story single-family and two-unit residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and consistent with applicable development standards.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc. on October 19, 2020. 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 North American Vertical Datum of 1988 [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). The finish floor elevation of the proposed dwelling is 11.25 feet (NAVD 88); however the analysis provided in the hazard study verifies that it is unlikely that wave runup will reach the site even with 6 feet of sea level rise due to the distance from the shoreline. 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.

4. The finish floor elevation of the proposed single-family residence is at an elevation of 11.25 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv) (Natural Landform and Shoreline Protection), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) (General Site Planning and Development Standards). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
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 CBC prior to building permit issuance.
7. As the property is adjacent to coastal waters, a Construction Pollution Prevention Plan (CPPP) was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.

8. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. The WQHP was prepared by Forkert Engineering & Surveying, Inc. dated January 26, 2021. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
9. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. The project site is not located adjacent to a coastal view road, public viewpoint, public park, beach, or public accessway, as identified in the Coastal Land Use Plan. The nearest public viewpoint is the Balboa Pier, which is located approximately 4,000 feet to the east of the project site. The project may be located within the viewshed of other distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Fact in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-003, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Implementation Plan) of the NBMC. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF JUNE, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to final 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.*
3. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.*
4. 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.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. *This Coastal Development Permit does not authorize any development seaward of the private property.*
7. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction

activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.

B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (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.

8. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
9. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
10. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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.
11. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
13. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
14. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
15. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

16. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
17. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
18. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
19. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
20. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
21. Prior to the issuance of building permits, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
22. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
23. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
25. This Coastal Development Permit No. CD2021-003 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.

26. 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 Harvey Residence, including, but not limited to, Coastal Development Permit No. CD2021-003 (PA2021-013). 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.