



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending December 17, 2021.

ZONING ADMINISTRATOR ACTIONS DECEMBER 16, 2021

- Item 1: Inter-Pro Property Corporation Residence Lot Merger No. LM2021-004, Coastal Development Permit No. CD2021-033 and Staff Approval No. SA2021-008 (PA2021-183)
Site Address: 518 and 520 Via Lido Nord
Action: Approved by Resolution No. ZA2021-076 Council District 1
- Item 2: Inter-Pro Property Corporation Residence Coastal Development Permit No. CD2021-056 (PA2021-215)
Site Address: 522 Via Lido Nord
Action: Approved by Resolution No. ZA2021-077 Council District 1
- Item 3: Cappy's Café Limited Term Permit No. XP2021-005 and Coastal Development Permit No. CD2021-036 (PA2021-180)
Site Address: 5930 West Coast Highway
Action: Approved by Resolution No. ZA2021-078 Council District 2
- Item 4: Sol Mexican Cocina Temporary Outdoor Dining Patio Limited Term Permit No. XP2021-025 and Coastal Development Permit No. CD2021-049 (PA2021-196)
Site Address: 251 East Coast Highway
Action: Approved by Resolution No. ZA2021-079 Council District 5
- Item 5: Class of 47 Temporary Outdoor Dining Patio Limited Term Permit No. XP2021-014 and Coastal Development Permit No. CD2021-042 (PA2021-194)
Site Address: 209 Palm Street
Action: Approved by Resolution No. ZA2021-080 Council District 1
- Item 6: Woody's Wharf Limited Term Permit No. XP2021-015 and Coastal Development Permit No. CD2021-043 (PA2021-193)
Site Address: 2318 Newport Boulevard
Action: Approved by Resolution No. ZA2021-081 Council District 1

- Item 7: ARC Butcher & Baker Temporary Outdoor Expansion Limited Term Permit No. XP2021-010 and Coastal Development Permit No. CD2021-039 (PA2021-188)
Site Address: 417 30th Street
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| Action: Approved by Resolution No. ZA2021-082 | Council District | 1 |
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- Item 8: The Peninsula Lounge Temporary Outdoor Expansion Limited Term Permit No. XP2021-017 and Coastal Development Permit No. CD2021-045 (PA2021-195)
Site Address: 2406 Newport Boulevard
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| Action: Approved by Resolution No. ZA2021-083 | Council District | 1 |
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- Item 9: El Cholo Limited Term Permit No. XP2021-008 (PA2021-189)
Site Address: 3520 East Coast Highway
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| Action: Approved by Resolution No. ZA2021-084 | Council District | 6 |
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- Item 10: Baja Sharkeez Limited Term Permit No. XP2021-022 and Coastal Development Permit No. CD2021-047 (PA2021-201)
Site Address: 114 Mc Fadden Place
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| Action: Approved by Resolution No. ZA2021-085 | Council District | 1 |
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- Item 11: Tennis Clubhouse Grill Minor Use Permit No. UP2021-033 (PA2021-210)
Site Address: 1602 East Coast Highway, 5 and 11 Clubhouse Drive
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| Action: Approved by Resolution No. ZA2021-086 | Council District | 5 |
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- Item 12: Gordon Preschool Minor Use Permit No. UP2021-040 (PA2021-244)
Site Address: 1126 Goldenrod Avenue
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| Action: Approved by Resolution No. ZA2021-087 | Council District | 6 |
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- Item 13: Malarky's Irish Pub Temporary Patio Limited Term Permit No. XP2021-027 and Coastal Development Permit No. CD2021-051 (PA2021-205)
Site Address: 3011 Newport Boulevard
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| Action: Approved by Resolution No. ZA2021-088 | Council District | 1 |
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- Item 14: 2676 Bay Shore Drive Seawall Coastal Development Permit No. CD2021-065 (PA2021-250)
Site Address: 2676 Bay Shore Drive
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| Action: Approved by Resolution No. ZA2021-089 | Council District | 3 |
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- Item 15: Joey Restaurant Group Minor Use Permit No. UP2021-046 (PA2021-263)
Site Address: 453 Newport Center Drive
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| Action: Approved by Resolution No. ZA2021-090 | Council District | 5 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

Item 1: Gondola Adventures Extension of Time – Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 (PA2020-273)
Site Address: 200 Bayside Drive

Action: Approved Council District 5

Item 2: Residences at 4400 Von Karman Free Standing Parking Structure Revision – Staff Approval No. SA2021-006 (PA2021-156)
Site Address: 4400 Von Karman Avenue

Action: Approved Council District 3

Item 3: Pacifica Christian High School Outdoor Cafeteria Area – Limited Term Permit No. XP2021-006 (PA2021-186)
Site Address: 883 West 15th Street

Action: Approved Council District 2

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (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. ZA2021-076

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM 2021-004, COASTAL DEVELOPMENT PERMIT NO. CD2021-033 AND STAFF APPROVAL NO. SA2021-008 TO DEMOLISH TWO EXISTING SINGLE-FAMILY DWELLINGS, MERGE TWO LOTS UNDER COMMON OWNERSHIP AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED FOUR (4)-CAR GARAGE LOCATED AT 518 AND 520 VIA LIDO NORD (PA2021-183)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Anne Fox, MIG, Inc., with respect to property located at 518 and 520 Via Lido Nord, requesting approval of a lot merger, coastal development permit and staff approval for establishment of grade.
2. The property at 518 Via Lido Nord is legally described as Lot 500 in Tract 907 and the property at 520 Via Lido Nord is legally described as Lot 501 and Lot 502 in Tract 907.
3. The applicant proposes a lot merger and coastal development permit to allow the demolition of two (2) single-family residences at 518 Via Lido Nord (Lot 500) and 520 Via Lido Nord (Lot 501 and Lot 502), the merger of two (2) lots under common ownership (Lot 500 and Lot 501) to create a single parcel, and the construction of a 6,091-square-foot, two (2)-story, single-family residence including an attached 803-square-foot, four (4)-car garage. The merged lot and new development will retain the address of 520 Via Lido Nord. The remaining Lot 502 will be assigned the new address of 522 Via Lido Nord and will be developed with an additional single-family dwelling under a separate coastal development permit (PA2021-215). The project includes reinforcing and raising an existing bulkhead. Additionally, a request for a staff approval is included for grade establishment within the front yard area along the water on the existing 520 Via Lido Nord property (Lot 501 and Lot 502).
4. The subject properties are 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 properties are 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.
6. Implementation of CD2021-033 and CD2021-056, as conditioned, will result in no net loss of density.

7. A public hearing was scheduled on November 24, 2021 and continued to December 16, 2021. The public hearing was held online via Zoom. 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 Sections 15315 and 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 15 (Minor Land Divisions) and Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel and complies with the conditions specified above.
3. 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 two (2) single-family residences and the construction of a new 6,091-square-foot single-family dwelling with an attached 803-square-foot, four (4)-car garage. 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.
4. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Lot Merger

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The merged lots will retain the R-1 (Single-Unit Residential) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for a maximum of one (1) residential dwelling unit located on a single legal lot.
2. The Land Use Element of the General Plan designates both properties as RS-D (Single-Unit Residential Detached), which applies to single-family residential dwelling units. The Coastal Land Use Plan designates the properties as RSD-C (Single-Unit Residential Detached – 10.0 - 19.9 DU/AC) which provides for density ranges from 10.0-19.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.

3. The subject properties are not located within a specific plan area.
4. Newport Beach Municipal Code Title 21 21.18.030 (Residential Coastal Zoning Districts General Development Standards) establishes the minimum standards required for lot creation. The minimum lot width required and the minimum lot area required in the R-I zoning district is 50 feet and 5,000 square feet respectively. The underlying lots on the same block and throughout Lido Island are all substandard to these requirements with underlying lots having approximately 30-foot widths and 90-foot lengths. The existing 520 Via Lido Nord complies with these standards because it uses two (2) underlying legal lots. 518 Via Lido Nord is the standard Lido Island lot size with approximately 30-foot width and 90-foot length. The width of the merged lot will be approximately 60 feet and the lot area will be approximately 5,561 square feet. This width and area is consistent with the existing width and area of 520 Via Lido Nord and is also consistent with other merged lots within the same block and throughout Lido Island.

Finding:

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

Fact in Support of Finding:

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

Finding:

- E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*
- a. Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
 - b. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - c. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*
1. Lido Island has a unique shape along the waterfront which results in lots of various shapes and sizes. Properties within the 500 block of Via Lido Nord vary in size and width and, although the proposed lot merger will create a lot that is larger than the immediately adjoining lots, it will not create an excessively large lot in comparison to other existing

lots on the Island. There are existing lots similar in size to the merged lot. Some examples include 544 Via Lido Nord (5,400 square feet), 524 Via Lido Nord (4,050 square feet), 521 Via Lido Nord (4,539 square feet), 618 Via Lido Nord (6,975 square feet), and 633 Via Lido Nord (5,016 square feet). Larger lots, such as 524 Via Lido Nord, 544 Via Lido Nord and 537 Via Lido Nord can be found within the same block as the site. Also, the existing 520 Via Lido Nord is the same size as the proposed 520 Via Lido Nord, just a shift of the lots. The majority of the comparable parcels are waterfront development or just across the street from the water, and this lot merger would be consistent with this pattern.

2. The width of the merged lots will be approximately 60 feet which is not excessive. The merged lot does not develop previously underdeveloped land, nor does it disrupt the character or livability of the neighborhood.
3. Orientation and access to the parcel would remain from Via Lido Nord. The resulting lot configuration will not change the existing pattern of development in the area.
4. Fact in Support of Finding C.4 is hereby incorporated by reference.

Waiver of Parcel Map

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

Finding:

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

Facts in Support of Finding:

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

4. The merged lot is within an urban environment and will be served by existing public utilities.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The newly created parcel will comply with all development standards for the R-1 Coastal Zoning District. Facts in support of Finding C.1, C.2, and C.4 are incorporated here by reference.
2. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 8,178 square feet and the proposed floor area is 6,091 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting the water, 4 feet along each side property line, and 4 feet along the street frontage property line on Via Lido Nord.
 - c. The highest guardrail and roof is less than 24 feet from established grade of 12.77 feet North American Vertical Datum of 1988 (NAVD88), which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of four (4) vehicles complying with the minimum three (3)-car parking requirement for single-unit dwellings 4,000 square feet or greater.
3. The neighborhood is predominantly developed with two (2)-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development consistent with applicable development standards.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated July 26, 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 8.83 feet NAVD88 top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3-foot increase

in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.7 feet 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).

5. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to raise the bulkhead to an elevation of 12.30 feet (NAVD 88) per the proposed plans. PMA Consulting, Inc. has confirmed the bulkhead design can be raised up to 14.4 feet (NAVD 88) if needed and in compliance with the updated guidelines.
6. Once the existing seawall/bulkhead is reinforced and raised 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. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the reinforced and raised bulkhead. Therefore, the project has been conditioned to raise the bulkhead to the 12.30 feet (NAVD88) per the approved plans.
7. The finished floor elevation of the proposed single-family residence is 12.61 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard. The Coastal Hazards Report concludes that the bay water elevation will not exceed the proposed finished floor for the anticipated 75-year life of the structure.
8. NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to final building inspection, and prior to the issuance of building permits, respectively.
9. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
10. Pursuant to Section 21.35.050 of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface

area, a Water Quality and Management Plan (WQMP) is required. A preliminary WQMP has been prepared in July 27, 2021 for the project by Forkert Engineering & Surveying, Inc. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a Low Impact Development (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 Section 21.30.075 (Landscaping) of the NBMC. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted
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. 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 project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views. The front of the residence, which is visible from the bay, provides additional setbacks for the first floor and the living areas on the second floor where the required setback is 10 feet. 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.
14. The project replaces an existing single-family residence located on standard residential 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.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. 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 a standard residential 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 280 feet northwest of the property at the terminus of Via Koron, where there is access to the beach along the bay. Additional vertical access points to the water are located at the terminus of Via Orvieto. The project does not include any features that would obstruct access along these routes.

Staff Approval for Grade Establishment

In accordance with Section 20.30.050 (C) – (Grade Establishment) and 21.30.050 (C) – (Harbor and Bay Regulations) If the Director finds that the existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot, the Director may establish the grade that is reasonable and comparable with the grades of adjoining lots and that will not be detrimental or injurious to property and improvements on adjoining lots.

Finding:

- 1. The existing grade on the subject lot has been previously altered (e.g., contains retaining structures, property line walls, planters, or excavation/fill), or other conditions are present to the degree that the existing grade is not representative of the prevailing grades on adjoining lots and/or the general area and, therefore, is not appropriate for the purpose of establishing the grade of the subject lot.*

Facts in Support of Finding:

1. The Applicant is redeveloping the property with a new single-unit residence; however, the grades along the front setback area (waterfront) include depressed areas that are not representative of the prevailing grades on the two (2) adjoining properties. This grade differential creates design constraints and unfairly restricts the heights of accessory structures below those of the neighboring properties.
2. The subject property is currently developed with a planter within the front yard along the waterfront with an elevation of approximately 8.7 feet (NAVD88). This planter elevation

is approximately 4 feet lower than the immediately adjacent properties on both sides and, therefore, not appropriate for the purposes of measuring height of the accessory structures.

Finding:

- J. The grade is reasonable and comparable with the grades of adjoining lots and will not be detrimental or injurious to property and improvements on adjoining lots.*

Fact in Support of Finding:

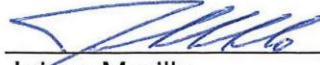
1. Allowing a higher grade of 12.71 feet (NAVD88), which is an average elevation between the adjacent property's front yards along the waterfront, would provide the property with a grade elevation that is compatible with those of the neighboring properties and equitable for the purposes of measuring heights of accessory structures within the front setback.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-033, Lot Merger No. LM2021-004 and Staff Approval No. SA2021- 008 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 19 (Subdivisions) and Title 21 Local Coastal Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City on the Coastal Development Permit 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 16TH DAY OF DECEMBER, 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 recordation of the lot merger, the two (2) lots shall be held entirely under one (1) common fee ownership.
3. Prior to recordation of the lot merger, the two (2) single-family dwellings located at 518 Via Lido Nord and 520 Via Lido Nord shall be permitted and finaled for demolition permits.
4. Prior to the final of building permits, the pier and slip that straddles the property line between 520 Via Lido Nord and 522 Via Lido Nord shall be reconfigured and permitted to comply with Municipal Code Section 17.35.020.A.7. and 17.35.020.B.1.
5. The lot merger shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid.
6. Prior to the issuance of building permits for construction across the existing interior lot lines, recordation of the lot merger documents with the County Recorder shall be required.
7. The grade for the purposes of measuring height of accessory structures within the 10-foot front yard setback along the waterfront, authorized by this determination shall be based on the grade of 12.71 feet (NAVD88).
8. Prior to final of building permits, the existing seawall shall be reinforced and capped to 12.30 feet (NAVD 88) and capable to be raised up to 14.4 feet (NAVD 88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial and Residential Facilities in accordance with the recommendations provided in the Coastal Hazards Report and Bulkhead Conditions Report prepared by PMA Consulting, Inc., dated July 26, 2021.
9. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices 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.
10. Prior to the final building permit inspection for the dwelling at 520 Via Lido Nord, building permits for the new dwelling at 522 Via Lido Nord (CD2021-056) shall be issued and construction commenced to ensure no net loss of housing units through project implementation.

11. *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.*
12. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission). Prior to the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
13. 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.
14. This Coastal Development Permit does not authorize any development seaward of the private property.
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. 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.
 17. 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.
 18. 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.
 19. 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.
 20. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
 21. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
 22. 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.
 23. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if it is determined that the proposed uses or conditions under which it is being operated or maintained are 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.
 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.*
 25. *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.*

26. 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.
27. Prior to issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
28. 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.
29. 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.
30. 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.
31. Construction activities shall comply with Section 10.28.040 – (Construction Activity— Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
32. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 – (Community Noise Control) 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

33. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
34. 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.
35. This Coastal Development Permit No. CD2021-033 and Lot Merger No. LM2021-004 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.
36. 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 Inter-Pro Property Corporation Residence including, but not limited to, Coastal Development Permit No. CD2021-033, Lot Merger No. LM2021-004 and Staff Approval No. SA2021-008 (PA2021-183). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2021-077

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-056 TO CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 522 VIA LIDO NORD (PA2021-215)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Anne Fox, MIG, Inc., with respect to property located at 522 Via Lido Nord, requesting approval of a coastal development permit.
2. The proposed site at 522 Via Lido Nord is legally described as Lot 502 of Tract No. 907 in the City of Newport Beach, Orange County, California.
3. The applicant proposes to construct a new single-family residence of 1,665 square feet including an attached 498-square-foot, two (2)-car garage. The structure would reach a height of approximately 24 feet and includes two (2) stories. The project includes reinforcing and raising the existing bulkhead. 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. The project will occupy the underlying legal Lot 502 which was previously developed with Lot 501 as 520 Via Lido Nord. The project will be assigned the new address 522 Via Lido Nord.
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. Implementation of CD2021-056 and CD2021-033, as conditioned, will result in no net loss of density.
7. A public hearing was scheduled on November 24, 2021 and continued to December 16, 2021. The public hearing was held online via Zoom. 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 construction of a new 1,665-square-foot, single-family residence including an attached 498-square-foot, two (2)-car-garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,658 square feet and the proposed floor area is 1,665 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 front property line abutting the Bay.
 - c. The highest guardrail and ridge are less than 24 feet from established grade (12.79 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- and two (2)-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development.
3. Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated July 26, 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 8.83 feet NAVD88 top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.7 feet 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).
4. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to raise the bulkhead to an elevation of 11.19 feet (NAVD 88) per the proposed plans. PMA Consulting, Inc. has confirmed the bulkhead design can be raised up to 14.4 feet (NAVD 88) if needed and in compliance with the updated guidelines.
5. Once the existing seawall/bulkhead is reinforced and raised 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. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the reinforced and raised bulkhead. Therefore, the project has been conditioned to raise the bulkhead to the 11.19 feet (NAVD88) per the approved plans.
6. The finished floor elevation of the proposed single-family residence is 12.61 feet (NAVD88), which complies with the minimum 9.00-foot (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 Management 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 (WQMP) is required. A preliminary WQMP was prepared on July 27, 2021 for the project by Forkert Engineering & Surveying, Inc. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an Low Impact Development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
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 a large setback of 44 feet where the required setback is 10 feet. 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 residential lot with a new single-family residence. The lot is zoned for multi-family, but the existing development is single family. 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 approximately 300 feet northwest of the property at the terminus of Via Koron, where there is access to the beach along the bay. Additional vertical access points to the water are located at the terminus of Via Orvieto. 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. CD2021-056, 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 16TH DAY OF DECEMBER, 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. 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.
5. 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.
6. 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.
7. 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.
8. 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.

9. *The grade determination for the purposes of measuring height of accessory structures within the 10-foot front yard setback along the waterfront, authorized by Staff Approval No. SA2021-008 shall be based on the grade of 12.71 feet (NAVD88).*
10. *Prior to final of building permits, the existing seawall shall be reinforced and capped to 11.19 feet (NAVD 88) and capable to be raised up to 14.4 feet (NAVD 88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial and Residential Facilities in accordance with the recommendations provided in the Coastal Hazards Report and Bulkhead Conditions Report prepared by PMA Consulting, Inc., dated July 26, 2021.*
11. *Prior to the final building permit inspection for the dwelling at 522 Via Lido Nord, building permits for the new dwelling at 520 Via Lido Nord (CD2021-033) shall be issued and construction commenced to ensure no net loss of housing units through project implementation.*
12. 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.
13. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
14. This Coastal Development Permit does not authorize any development seaward of the private property.
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. 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.
17. 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.
18. 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.
19. 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.
20. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
21. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
22. 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.
23. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if it is determined that the proposed uses or conditions under which it is being operated or maintained are 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.
24. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
25. Construction activities shall comply with Section 10.28.040 – (Construction Activity— Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

26. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 – (Community Noise Control) 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

27. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
28. 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.
29. This Coastal Development Permit No. CD2021-056 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.
30. 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 Inter-Pro Property Corporation Residence including, but not limited to, Coastal Development Permit No. CD2021-056 (PA2021-215). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys’ fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City’s costs, attorneys’ fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2021-078

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, LIMITED TERM PERMIT NO. XP2021-005 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-036 TO ALLOW AN EXPANDED OUTDOOR DINING AREA LOCATED AT 5930 WEST COAST HIGHWAY (PA2021-180)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Tim Campbell representing Cappy's Café with respect to a property located at 5930 West Coast Highway, and legally described as Lot 5 and Portion of Lot 4, Block 159, A Tract, River Section requesting approval of a limited term permit and coastal development permit.
2. The applicant proposes a limited term permit and a coastal development permit to allow an 800-square-foot expanded dining area for Cappy's Café for up to a one (1)-year term. This is a reduction from the 1,800-square-foot outdoor dining area previously authorized through Emergency Temporary Use Permit No. UP2020-052 (PA2020-131)
3. The subject property is designated Visitor Serving Commercial (CV) by the General Plan Land Use Element and is located within the Commercial Visitor-Serving (CV) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Visitor Serving Commercial – 0.0-0.75 FAR (CV-A) and it is located within the Commercial Visitor-Serving (CV) Coastal Zone District.
5. A public hearing was scheduled on November 24, 2021 and continued to December 16, 2021. The public hearing was held online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15301 and 15303 under Class 1 (Existing Facilities) and Class 3 (New Construction or Conversion of Small Structures), respectively, 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 1 exemption includes 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. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is a maximum 800-square-foot expanded outdoor dining patio at an existing restaurant for a one-year limited term (January 1, 2022 through December 31, 2022) and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended outdoor dining patio for one (1)-year term (January 1, 2022 through December 31, 2022) while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Emergency Temporary Use Permit No. UP2020-052 (PA2020-131) and includes 800 square feet of net public area.
2. The expanded dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. The operation of the expanded dining area is limited to one (1) year beginning January 1, 2022, through December 31, 2022, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.

3. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
4. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
5. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
6. The overall plan includes appropriate delineation of outdoor use spaces with physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.12 acres in size and is a flat property adjacent to West Coast Highway. The existing food service use with outdoor dining has operated at 5930 West Coast Highway since 1982. Based upon the modified site plan and reduced outdoor dining area, there is adequate area to accommodate the expanded dining area without impacting traffic and pedestrian circulation.
2. The lot is bounded by the Semeniuk Slough waterway to the east and a retail center to the west. To the north is a veterans housing apartment complex and the Semeniuk Slough waterway. To the south, across West Coast Highway, is a residential area. An existing food service use with outdoor dining is located at this site. The expanded outdoor dining use will not impede use and enjoyment of the properties in the area, as conditioned.
3. The existing restaurant site provides twelve (12) surplus parking spaces and the proposed expanded dining area. The expanded dining area will reduce the private parking provided by ten (10) parking spaces. The business has a surplus of twelve (12) spaces based on the existing net public area of the building at a parking rate of one (1) space for every thirty-five (35) square feet of net public area. The expanded outdoor dining area and change in circulation will reduce this surplus to two (2) parking spaces.
4. The modified design will provide one-way drive-aisle circulation through the site and provide a better flow of traffic for patrons seeking parking for the restaurant. No ongoing traffic or site circulation issues are anticipated.

Finding:

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

Fact in Support of Finding:

1. The subject lot is accessed from West Coast Highway and 60th Street. Private parking is provided on-site and across 60th Street at 205 and 207 60th Street. All of the private parking lots, along with the subject property are owned by 5930 W. Coast Highway, LLC. The food service use is located in a commercial and residential area and proposes to operate from 8:00 a.m. to 3:00 p.m., Sunday through Saturday. The private parking lots have historically accommodated Cappy's Café and no traffic issues are anticipated with the continued use of the expanded dining area and modified site plan.

Finding:

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

Facts in Support of Finding:

1. The existing food service use with outdoor dining has operated at the subject property since 1982. The existing private parking has historically accommodated the food service use and is expected to accommodate the temporary use.
2. The subject property's original Use Permit (UP1980) established a parking rate of one (1) parking space per every thirty-five (35) square feet of net public area at the establishment.
3. The establishment maintains a total of forty-three (43) existing parking spaces located on-site and across 60th Street at 205 and 207 60th Street, which are owned in common with the subject property. Only thirty-one (31) spaces are required per the parking rate established by Use Permit No. UP1980, resulting in a surplus of twelve (12) parking spaces.
4. The proposed canopy will use ten (10) spaces, reducing the parking surplus to two (2) spaces based on the establishment's existing net public area. While the anticipated parking demand for the proposed outdoor dining area is not accommodated for on-site, the parking spaces that will be occupied by the outdoor dining area are currently surplus spaces. To further accommodate the proposed outdoor dining area, Cappy's proposes to change the circulation through the business's parking lot from two-way to one-way, entering along West Coast Highway and exiting at 60th Street.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is CV (Visitor Serving Commercial). The CV designation is intended to provide for accommodations, goods, and services intended to primarily serve visitors to the City of Newport Beach. Food service uses are consistent with nonresidential uses permitted in this zoning district. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation.
2. The site is located in the Commercial Visitor-Serving (CV) Zoning District. The CV designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation. The CV zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the CV Zoning District in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. **Council Policy D-9** recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy

recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and its economic prosperity while maintaining the unique character of the Newport Shores community.

5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. 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 Newport Shores Park, immediately to the northwest of the site and the property is not visible from the project site. The expanded outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development in Newport Shores. The outdoor dining area has been reduced by 1,000 square feet from the scope approved by Emergency Temporary Use Permit No. UP2020-052 (PA2020-131), and placed against the building, instead of encroaching into the property's drive aisle and parking spaces along Semeniuk Slough. This improved, narrow design will be less visible from West Coast Highway, increasing and improving the quality of the view of Semeniuk Slough by motorists and pedestrians traveling along the highway, compared to the original outdoor dining area
2. The Property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area and barrier within the private parking lot are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.

3. The dining area barrier is installed within the private parking lot. The barrier delineates the area dedicated for outdoor dining use and alcohol service from parking area. There are no existing City utilities within the expanded dining area. Substantial barriers in the form of K-rail or water-filled barriers will be provided adjacent to drive aisles and parking areas to ensure the safety of pedestrians from vehicle areas.
4. Development authorized by this permit will not block public access to the coast. Coastal access is increased by allowing commercial establishments to re-open, allowing the public to visit coastal areas and providing an added amenity for visitors.
5. The proposed operation is located adjacent to Semeniuk Slough to the north and east. In accordance with NBMC Section 21.30B.040 (Wetlands, Deepwater Areas, and Other Water Areas), a one hundred (100) foot buffer is required between development and wetlands unless: 1) a one hundred (100)-foot buffer is not possible due to site specific constrains, and b) the proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the resource and of the type and intensity of disturbance. A one hundred (100)-foot buffer between the proposed operation and Semeniuk Slough is not feasible to maintain as the outdoor dining area shall be located in the parking lot located between the main structure and Semeniuk Slough. Existing development within the parking area extends to fifteen (15) feet from the waterway and a one hundred (100)-foot buffer is not possible due to the location of the existing restaurant and parking area. A buffer of at least fifteen (15) feet shall be maintained between the proposed operation and adjacent Semeniuk Slough. The original outdoor dining area approved by Emergency Temporary Use Permit No. UP2020-052 was immediately adjacent to the waterway; therefore, the reduced scope proposed in this Limited Term Permit is an improvement on the original outdoor dining area. The proposed expanded dining area is located within a previously developed parking lot where appropriate site drainage is already provided. The proposed narrower buffer would be amply protective of the biological integrity of the wetland given the site-specific characteristics of the site and proposed improvements. The proposed improvements do not result in any additional site disturbance and the Project will not impact habitat for endangered, rare, or threatened species.
6. There is no feasible alternative location for the proposed operation due to physical constraints on the subject property. The parking lot is in the rear of the subject property and the subject building is located along the property line adjacent to West Coast Highway to the south and 60th Street to the west, prohibiting an outdoor dining area in front of and to the west of the establishment. Due to these constraints, the proposed operation is for a limited one (1)-year term and is only feasible in the parking lot behind the subject building, adjacent to the Semeniuk Slough waterway.
7. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (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, coastal access is provided from the existing parking area on-site. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-005 and Coastal Development Permit No. CD2021-036, 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 Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit and Coastal Development Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Sections 20.52.040.J (Extension of Limited Term Permit) and 21.54.060 (Time Limits and Extensions). The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *The expanded dining area shall not exceed 800 square feet. The design and site circulation shall occupy no more than ten (10) existing parking spaces on-site.*
4. *Parking for customers and patrons shall be limited to the areas shown on the exhibit provided in the project plans.*
5. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 3:00 p.m.*
6. *There shall be no use of amplified sound.*
7. *A buffer of at least fifteen (15) feet shall be maintained between the proposed operation and the adjacent Semeniuk Slough as a one hundred (100)-foot buffer is infeasible at this location. A reduced buffer is determined to be amply protective of the wetland and the proposed buffer is a significant improvement on the locations of the originally approved outdoor dining area in relation to Semeniuk Slough. All improvements shall be limited to the existing surface parking lot and shall not extend into unimproved site areas.*
8. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
9. *The parking and/or stopping of vehicles in 60th Street or in the public right-of-way between the subject property and adjacent buildings is prohibited. A "no customer pickup/drop off" sign shall be posted on the restaurant building on 60th Street.*

10. *All deliveries shall occur outside of 60th Street. Delivery vehicles shall also not park in the 60th Street end where “keep clear” markings are striped and “no parking” signs are posted.*
11. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
12. The sale of alcohol “to go” to patrons that dine within the expanded outdoor patios shall be prohibited.
13. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
14. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
15. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
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 approval.
18. This Limited Term Permit and Coastal Development Permit 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
20. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to direct lighting away from environmentally sensitive habitat areas (ESHA) and ESHA buffers and to minimize glare, sky glow, and light trespass, in compliance with NBMC Sections 21.030B.030(E)(5) and 21.30.070.
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 this **Limited Term Permit No. XP2021-005 and Coastal Development Permit No. CD2021-036 (PA2021-180) for Cappy's Café**. 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. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.
23. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
24. A building permit is required for proposed 800-square-foot tent/membrane structure.

Fire Department

25. Fire lane(s) shall be identified on the plan.
26. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
27. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
28. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a three-foot clearance in all directions.
29. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.

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30. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
31. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
- a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be UL listed for use within tents and/or canopies.
 - c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved by the fire code official.
32. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
- Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
 - If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
 - LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
 - Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
 - Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

Public Works Department

33. The Applicant shall install and maintain a substantial physical barrier (water-filled traffic barrier or K-rail between any area used and adjacent to any street, driveway, or parking area).

34. There shall be a minimum of 5 feet of space around all overhead facilities such as power poles and 15 feet of spaces around all underground facilities, such as vault lids, vent pipes, pad mounted transformers, etc.
35. Seating or structures below overhead conductors and/or under the “drip line” shall be prohibited.
36. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
37. Expanded outdoor dining areas shall adhere to the Southern California Edison clearance decal requirements.
38. All dead-end drive aisles shall be accommodated a dedicated turn-around area and minimum 5-foot hammerhead area.
39. The parking lot at 5930 West Coast Highway shall be restriped to accommodate one-way traffic flow as approved and required by the Public Works and Community Development Departments.
40. Appropriate one-way signage shall be installed as approved and required by the Public Works and Community Development Departments.
41. Restaurant employees shall not direct customers to park on 60th Street or within any adjacent or nearby private parking lots.

RESOLUTION NO. ZA2021-079

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-025 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-049 TO ALLOW A TEMPORARY OUTDOOR DINING AREA LOCATED AT 251 EAST COAST HIGHWAY (PA2021-196)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by FM Restaurants Signature OPCO LLC, owner of Sol Mexican Cocina Restaurant, a property located at 251 East Coast Highway, and legally described as Parcel 5 of Resubdivision 1003, requesting approval of a limited term permit and coastal development permit.
2. The applicant requests to maintain an existing approximately 870-square-foot deck platform with outdoor dining within seven existing parking spaces adjacent to the restaurant. The outdoor dining deck was previously authorized through Emergency Temporary Use Permit No. UP2021-018 (PA2021-097) for Sol Mexican Cocina Restaurant.
3. The subject property is designated CM (Recreational and Marine Commercial) by the General Plan Land Use Element and is located within the CM (Commercial Recreational and Marine) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Recreational and Marine Commercial (CM-A) – (0.0 to 0.30 FAR) and it is located within the Commercial Recreational and Marine (CM) Coastal Zone District.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is to maintain an 870-square-foot expanded outdoor dining patio at an existing restaurant for a one-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow the temporary outdoor dining deck for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP0651 (no conditions) and Outdoor Dining Permit No. OD0049A (12 a.m. for existing patio). The temporary outdoor dining will close by 9 p.m., Monday through Thursday and 10 p.m., Friday through Sunday.
2. The outdoor dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2021 through an Emergency Temporary Use Permit No. UP2021-018 (PA2021-097). The operation of the expanded dining area is limited to up to a one (1)-year term and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
3. Outdoor dining areas are common within the commercial neighborhoods along Coast Highway. Sol Mexican Cocina has an existing permanent outdoor dining area approved by

Outdoor Dining Permit No. OD0049A with late hours and the use has not proven detrimental. The temporary outdoor dining patio deck does not extend any outdoor dining hours of operation beyond those currently permitted by Use Permit No. UP0651 (no conditions) and Outdoor Dining Permit No. OD0049A (12 a.m. for existing patio). The temporary outdoor dining deck will maintain the hours of 9 p.m., Monday through Thursday and by 10 p.m., Friday through Sunday.

4. The operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The overall plan includes appropriate delineation of outdoor use spaces with temporary physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.49 acres in size and is relatively flat. The food service use has operated since its original approval in 1960. Based upon the site plan, there is adequate area to accommodate the temporary outdoor dining area without impacting pedestrian circulation, parking and circulation. The outdoor area uses seven (7) parking spaces with at least 26 parking spaces remaining for patrons.
2. The lot frontage is on East Coast Highway and the adjacent properties include Marina parking and 333 Restaurant. The food service use has existed at this site since 1960. The temporary outdoor dining use will not impede use and enjoyment of the properties in the area and will instead add to the ambiance and character of the area.
3. The temporary outdoor dining area will not impede any drive aisles. No traffic or site circulation issues have been documented since the temporary outdoor dining deck was established in May 2021. The location of the outdoor dining deck has proven to be located on the lot in an area with the least impact to the adjacent properties.

Finding:

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

Facts in Support of Finding:

1. The subject lot has a direct driveway approach taken from East Coast Highway and Bayside Drive. The existing outdoor dining deck is located closest to the restaurant entrance, adjacent to the Bay and will not impede access to the existing parking lot. There have been no traffic issues documented and the existing location has proven to not cause traffic issues.
2. The temporary outdoor dining will use seven (7) parking spaces. It will have barriers to protect the area from the drive aisles and parking areas and will not encroach into the drive aisles.

Finding:

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

Fact in Support of Finding:

1. The temporary outdoor dining will use seven (7) parking spaces with appropriate delineation and temporary substantial physical barricades. There are at least 26 parking spaces remaining on-site to serve the restaurant patrons in addition to shared parking on abutting lots.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation and Zoning designation for this site is CM (Recreational and Maine Commercial and Commercial Recreational and Marine, respectively). The CM designation is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the bay on sites located on or near the bay. The temporary outdoor dining use is accessory to the existing food service use with

outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CM designation

2. The Limited Term Permit for the temporary outdoor dining would complement and be consistent with the other commercial uses permitted within the Recreational and Marine Commercial area in that it provides amenities that support the visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

3. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Coast Highway.
4. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The project site is located adjacent to a coastal view road, East Coast Highway. The site is located approximately 760 feet east from a potential lateral access to the Bay as identified by the Coastal Land Use Plan. However, the temporary outdoor dining deck is located within an existing restaurant site, adjacent to the restaurant building and setback from the water on private property. The deck is low in height and does not include overhead tents or canopies. The temporary outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development along East Coast Highway and within this block of commercial development and restaurants. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
2. The Property is located in the coastal zone and the limited term permit to maintain the existing outdoor dining deck requires a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements do not constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. Improvements are complementary to the area; the subject restaurant and other restaurants on Coast Highway have similar outdoor dining improvements.
4. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
5. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The subject property is located between the nearest public road and the sea along the Bay adjacent the Coastal View Road, East Coast Highway. The existing property is developed with a restaurant and outdoor dining. The additional temporary outdoor dining is located on the private property adjacent the restaurant building and does not impede access to the boat slips, piers, adjacent Marina or Bay. The temporary outdoor dining area is approximately 155 feet east of the adjacent property at 201 East Coast Highway where there is a marina, parking and access to the Bay. The temporary outdoor dining area does not impede access to or impact parking or circulation at 201 East Coast Highway.

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) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-025 and Coastal Development Permit No. CD2021-049 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) and Title 21 Local Coastal Program (LCP) 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 16TH DAY OF DECEMBER 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Section 20.52.040.J (Extension of Limited Term Permit). The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *The expanded dining area shall not exceed 870 square feet.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the temporary outdoor dining area as part of this approval shall not extend beyond 9 p.m., Monday through Thursday and by 10 p.m., Friday through Sunday.*
5. *There shall be no use of amplified sound.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
8. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
9. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
10. The permittee shall provide adequate trash receptacles within the permitted patio and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
11. The Community Development Director or designee may inspect the modified area at any time during normal business hours.

12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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 approval.
14. This Limited Term Permit and 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.
15. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
16. 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 this **Limited Term Permit No. XP2021-025 and Coastal Development Permit No. CD2021-049 (PA2021-196) for Sol Mexican Cocina Restaurant**. 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

17. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).

18. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
19. Provide not less than 5 percent accessible seating at tables and counters with knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.
20. The tops of dining surfaces and work surfaces shall be 28 to 34 inches above the finish floor.
21. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
22. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
23. Accessible routes, including under canopy(ies) and other overhead improvements shall maintain a minimum clear height of 80 inches.
24. *The accessible ramp must comply with Section 11B-405 of the California Building Code.*
25. All electrical distribution lines shall be in good working order and shall be protected from pedestrian and vehicular traffic and shall accommodate accessibility.

Public Works Department

26. *A significant barricade (k-rail, water-filled barrier or other barrier approved by the Public Works Department shall be provided between the proposed outdoor dining areas and the drive aisles and parking stalls.*
27. *The dining area and substantial barricades shall not encroach into the existing drive aisle.*
28. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
29. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
30. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
31. Outdoor dining areas shall adhere to the SCE Clearance Decal examples provided.

Fire Department

32. Fire lane(s) shall be identified on the plan.
33. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
34. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
35. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a three (3)-foot clearance in all directions.
36. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
37. Heat lamps or other heating elements shall comply with the following requirements in accordance with Code Section 3107.12 of the California Fire Code:
 - a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be UL listed for use within tents and/or canopies.
 - c. Propane and other fuel-based Heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved for the Fire Code official.
38. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
 - Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
 - If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
 - LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as

candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.

- Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
- Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

RESOLUTION NO. ZA2021-080

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-014 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-042 TO ALLOW A TEMPORARY OUTDOOR DINING AREA LOCATED AT 209 PALM STREET (PA2021-194)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Cinnamon Teal Corp dba Class of 47, owner of Class of 47, on behalf of a property located at 209 Palm Street, and legally described as Lots 5, 6, and 7 in Block 5 of the Balboa Track, requesting approval of a limited term permit and coastal development permit.
2. The applicant requests a maximum 639-square-foot outdoor dining area with no late hours within a maximum of four (4) parking spaces. This is a reduction from an approximately 1,433-square-foot patio that was previously authorized by Emergency Temporary Use Permit No. UP2020-036 and Coastal Development Permit No. CD2020-047 (PA2020-109) for Class of 47.
3. The subject property is designated MU-V (Mixed-Use Vertical) by the General Plan Land Use Element and is located within the MU-V (Mixed-Use Vertical) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Vertical (MU-V), and it is located within the Mixed-Use Vertical (MU-V) Coastal Zone District.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The

Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is to reduce an existing temporary outdoor dining patio to a maximum 679-square-foot bar and restaurant for a one-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow the temporary outdoor dining area for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP1027 (no conditions). The temporary outdoor dining will close by 9 p.m., daily.
2. The outdoor dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2021 through Emergency Temporary Use Permit No. UP2020-036 and Coastal Development Permit No. CD2020-047 (PA2020-109). The operation of the expanded dining area is limited to up to a one (1)-year term and has been reviewed and conditioned to preclude any detriment to the general welfare of the area. The temporary outdoor dining will close by 9 p.m., daily.
3. Outdoor dining areas are common within the Balboa Peninsula area. The patio use has not proven detrimental to the surrounding area. The impact to parking is going to be

mitigated with the reduction in size of the patio and the hours of the outdoor dining patio end much earlier than the existing bar and restaurant.

4. The operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The overall plan includes appropriate delineation of outdoor use spaces with temporary physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.16 acres in size and is relatively flat. The food and bar service use has operated since its original approval in 1964. Based upon the site plan, there is adequate area to accommodate the temporary outdoor dining area without impacting pedestrian circulation, parking and circulation. The outdoor area as reduced uses four (4) parking spaces leaving four (4) spaces remaining for patrons.
2. The lot frontage is on Palm Street and East Bay Avenue. There is a public parking lot across Palm Street and various retail and restaurants with similar services. The food and bar service use has existed at this site since 1964. The temporary outdoor dining use will not impede use and enjoyment of the properties in the area and will instead add to the ambiance and character of the area.
3. The temporary outdoor dining area will not impede any drive aisles. The location of the outdoor dining deck has proven to be located on the lot in an area with the least impact to the adjacent properties.

Finding:

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

Facts in Support of Finding:

1. The subject lot has direct access from the alley. The outdoor dining patio will occupy four (4) parking spaces and will not encroach into the drive aisle or impede access to the existing parking lot.
2. The temporary outdoor dining will use four (4) parking spaces. It will have barriers to protect the area from the drive aisles and parking areas and will not encroach into the drive aisles.

Finding:

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

Fact in Support of Finding:

1. The temporary outdoor dining will use four (4) parking spaces with appropriate delineation and temporary physical barricades. There are four (4) parking spaces remaining on-site to serve the restaurant patrons in addition to the public parking lot across Palm Street.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation and Zoning designation for this site is MU-V (Mixed-Use Vertical). The MU-V designation is intended to provide for areas appropriate for the development of mixed-use structures that vertically integrate residential dwelling units above the ground floor with retail uses including office, restaurant, retail, and similar nonresidential uses located on the ground floor or above. The temporary outdoor dining use is accessory to the existing food service use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the MU-V designation
2. The Limited Term Permit for the temporary outdoor dining would complement and be consistent with the other commercial uses permitted within the Mixed-Use Vertical Commercial area in that it provides amenities that support the visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

3. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Peninsula.
4. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The project site is not located adjacent to any public viewpoints or roads as identified in the Coastal Land Use Plan. The project site is located 215 feet south of the Bay where there is lateral and beach access as identified by the Coastal Land Use Plan along Edgewater Place and a public boardwalk. The temporary outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development along the Balboa Peninsula and within this block of commercial and mixed-use development and restaurants. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

2. The Property is located in the coastal zone and the limited term permit to maintain a reduced temporary outdoor dining patio requires a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements do not constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. Improvements are complementary to the area; the subject restaurant and other restaurants on the Balboa Peninsula have similar outdoor dining improvements.
4. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area;
5. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The subject property is located between the nearest public road and the sea along East Bay Avenue however, the site is setback approximately 215 feet from the Bay. The existing property is developed with a bar and restaurant. The temporary outdoor dining patio is located on the private property behind the restaurant building and does not impede access to the public walkway along the Bay, piers, or boat slips. The temporary outdoor dining area is approximately 215 feet south of lateral and beach access to the Bay which is provided along Edgewater Place and the public boardwalk. The temporary outdoor dining patio does not impede access to or impact parking or circulation to the boardwalk, beach or Bay.

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) and Section 15303 under Class 3 (New

Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-014 and Coastal Development Permit No. CD2021-042 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) Title 21 Local Coastal Program (LCP) 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 16TH DAY OF DECEMBER 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Section 20.52.040.J (Extension of Limited Term Permit). The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *The expanded dining area shall not exceed 639 square feet and shall not occupy more than four (4) parking spaces. The width shall not extend past the parking stalls and shall not encroach into the parking lot drive aisle.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the temporary outdoor dining area as part of this approval shall not extend beyond 9 p.m., daily.*
5. *There shall be no use of amplified sound.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
8. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
9. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
10. The permittee shall provide adequate trash receptacles within the permitted patio and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

11. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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 approval.
14. This Limited Term Permit and 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.
15. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
16. 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 this **Limited Term Permit No. XP2021-014 and Coastal Development Permit No. CD2021-042 (PA2021-194) for Class of 47**. 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

17. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.

-
- e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
 18. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
 19. Provide not less than 5 percent accessible seating at tables and counters with knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.
 20. The tops of dining surfaces and work surfaces shall be 28 to 34 inches above the finish floor.
 21. All exiting paths shall be a minimum 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
 22. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
 23. Accessible routes, including under canopy(ies) and other overhead improvements shall maintain a minimum clear height of 80 inches.
 24. All electrical distribution lines shall be in good working order and shall be protected from pedestrian and vehicular traffic and shall accommodate accessibility.

Public Works Department

25. *A significant barricade (k-rail, water-filled barrier or other barrier approved by the Public Works Department shall be provided between the proposed outdoor dining areas and the drive aisles and parking stalls.*
26. *The dining area and substantial barricades shall not encroach into the existing parking lot drive aisle or any drive aisle.*
27. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
28. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
29. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
30. Outdoor dining areas shall adhere to the SCE Clearance Decal examples provided.

Fire Department

31. Fire lane(s) shall be identified on the plan.
32. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
33. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
34. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
35. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
36. Heat lamps or other heating elements shall comply with the following requirements in accordance with Code Section 3107.12 of the California Fire Code:
 - a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be UL listed for use within tents and/or canopies.
 - c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved for the Fire Code official.
37. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
 - Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
 - If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
 - LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as

candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.

- Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
- Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

RESOLUTION NO. ZA2021-081

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-015 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-043 TO ALLOW AN EXPANDED OUTDOOR DINING AREA LOCATED AT 2318 NEWPORT BOULEVARD (PA2021-193)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Greg Pappas, representing owner Ralph Furra, with respect to property located at 2318 Newport Boulevard, and legally described as Lot 6 of Block 223 Tract A in the City of Newport Beach, Orange County, California, requesting approval of a limited term permit and a coastal development permit.
2. A request for a limited term and a coastal development permit to allow a 999-square-foot maximum expanded dining area for up to a one (1)-year term (January 1, 2022 through December 31, 2022). This is a reduction from an approximately 2,553-square-foot patio that was previously authorized through Emergency Temporary Use Permit No. UP2020-050 and Emergency Coastal Development Permit No. CD2020-060 (PA2020-129) for Woody's Wharf.
3. The subject property is designated MU-W2 (Mixed-Use Water 2) by the General Plan Land Use Element and is located within the MU-W2 (Mixed Use Water) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related) and it is located within the MU-W2 (Mixed-Use Water) Coastal Zoning district.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is a maximum 999-square-foot expanded outdoor dining patio at an existing restaurant for up to a one (1)-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP2015-037 (PA2015-158) and includes 1,882 square feet of net public area including a 709-square-foot outdoor dining patio.
2. The expanded dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. The operation of the expanded dining area is limited to up to a one (1)-year beginning January 1, 2022, through December 31, 2022, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
3. Outdoor dining areas are common on the Balboa Peninsula, have been used at the subject property during similar hours in the past and the use has not proven detrimental. The

existing hours of operation for the restaurant are 9:30 a.m. through 2:00 a.m., daily. The expanded outdoor dining area would close by 9:00 p.m., Monday through Thursday, and by 10:00 p.m., Friday through Sunday, as required by Condition of Approval No. 5.

4. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The overall plan includes appropriate delineation of outdoor use spaces with physical barriers.
8. The expanded dining area will not impede pedestrian coastal access since the patio is in a parking area adjacent to Newport Boulevard.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.34 acres in size. A restaurant has operated at the subject property since 1965. Based upon the site plan, there is adequate area to accommodate the expanded dining area without impacting pedestrian circulation and coastal access.
2. The lot is bounded by Newport Boulevard to the west, mixed use properties to the south, and a restaurant to the north. The expanded outdoor dining use will not impede use and enjoyment of the properties in the area.
3. The expanded dining area will occupy seven (7) standard parking spaces. No traffic or site circulation issues are anticipated. There will be 14 parking spaces, including two (2) accessible spaces, remaining available for use by the establishment.

Finding:

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

Facts in Support of Finding:

1. The subject lot is accessed from Newport Boulevard. A surface parking area is provided on-site. The expanded dining area will occupy no more than seven (7) standard parking spaces. The existing food service use, Woody's Wharf, is located in a mixed use area and proposes to operate all day and into the evening hours. Sufficient parking is provided on-site and no traffic issues are anticipated with the continued use of the expanded dining area.
2. The City is also undergoing an analysis of parking rates, including rates related to food service and outdoor dining. Initial findings and recommendations of this study were presented at a City Council study session on November 30, 2021. Preliminarily, the study found that food service parking requirements should be lowered and that rideshare service drop-off/pick-up areas or alternative modes of transportation should be considered. This information will ultimately inform future revisions to the Zoning Code, which may support future use permit amendments for permanent outdoor dining areas.

Finding:

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

Facts in Support of Finding:

1. A restaurant has existed at the subject property since 1965. The current operator took over management of the business in 2002. The existing surface parking lot has historically served as the primary parking supply for patrons. The surface lot is expected to adequately accommodate the temporary use for up to a one (1)-year term.
2. The expanded dining area will not impede pedestrian access to the waterfront.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is MU-W2 (Mixed Use Water). The MU-W2 designation is applied to waterfront locations in which marine related uses may be intermixed with a building that provide residential on the upper floors. A food service use with outdoor dining is consistent with this designation. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the MU-W2 designation. Outdoor dining is a use that tends to foster additional pedestrian activity.

2. The site is located in the MU-W2 (Mixed-Use Water) Zoning District. The MU-W2 designation is applied 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. The MU-W2 zoning district allows food service uses and the expanded dining area is a temporary use, authorized with a limited term permit.
3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the MU-W2 Zoning District of the Balboa Peninsula in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Balboa Peninsula community.
5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. 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 the Newport Pier and the site is only slightly visible as a small portion of a larger panoramic perspective from this vantage point. The expanded outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development on the Balboa Peninsula. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
2. The Property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area and barrier are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
4. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (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 expanded patio is located in the existing parking lot and is not located by the sea where lateral and vertical coastal access would be needed.

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) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-015 and Coastal Development Permit No. CD2021-043 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 and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit and Coastal Development Permit shall be effective for up to a one (1)-year term January 1, 2022, to December 31, 2022. The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this Limited Term Permit on or before December 31, 2022.
3. *The expanded dining area shall not exceed 999 square feet in area.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 9 p.m., Monday through Thursday, and will close by 10:00 p.m., Friday through Sunday.*
5. *There shall be no use of amplified sound.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent to common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
8. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
9. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
10. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
11. The Community Development Director or designee may inspect the modified area at any time during normal business hours.

12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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 approval.
14. This Limited Term Permit and Coastal Development Permit 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.
15. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
16. 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 this **Limited Term Permit No. XP2021-015 and Coastal Development Permit No. CD2021-043 (PA2021-193) for Woody's Wharf**. 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

17. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).

18. Accessible seating at tables or counters shall provide knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.
19. The tops of dining surfaces and work surfaces shall be 28 inches to 34 inches above the finish floor.
20. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

Fire Department

21. Fire lane(s) shall be identified on the plan.
22. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
23. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
24. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
25. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
26. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
27. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
 - a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be ul listed for use within tents and/or canopies.
 - c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved for the Fire Code official.
28. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
 - Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.

- Illuminated Exit Signs shall be installed.
- Emergency Lighting shall be provided.
- Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
- All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
- If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
- LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
- Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
- Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

Public Works Department

29. *The applicant shall install and maintain a substantial physical barrier (water-filled barrels, 55 to 60 gallon minimum, spaced a maximum of 5 feet apart) between any area used and adjacent to any street, driveway or parking area.*
30. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
31. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
32. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
33. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided.

RESOLUTION NO. ZA2021-082

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-010 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-039 TO ALLOW A TEMPORARILY EXPANDED OUTDOOR DINING AREA LOCATED AT 417 30TH STREET (PA2021-188)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by DSH Industries, LLC dba ARC Butcher & Baker (Applicant), with respect to property located at 417 30th Street, and legally described as Parcel No. 1 of Lot Line Adjustment No. 94-8, requesting approval of a limited term permit and a coastal development permit.
2. A request to allow a maximum 550-square-foot expanded dining area for up to a one (1)-year term (January 1, 2022, through December 31, 2022). The expanded dining area was previously authorized through Emergency Temporary Use Permit Nos. UP2020-013 (PA2020-081) and UP2020-179 (PA2020-334).
3. The subject property is categorized MU-H4 (Mixed-Use Horizontal) by the General Plan Land Use Element and is located within the MU-CV/15TH ST (Mixed-Use Cannery Village and 15th Street) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-H (Mixed-Use Horizontal), and it is located within the MU-CV/15TH ST (Mixed-Use Cannery Village and 15th Street) Coastal Zoning district.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures), of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The

Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The scope of work is a maximum 550-square-foot expanded outdoor dining patio at an existing establishment for up to a one (1)-year limited term (January 1, 2022, through December 31, 2022) and qualifies under the parameters of the Class 1 and Class 3 exemptions.

3. The exceptions to the Class 3 Categorical Exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Section 20.52.040(G) (Limited Term Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term (January 1, 2022, through December 31, 2022) while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Minor Use Permit No. UP2019-026 (PA2019-105) and includes 298 square feet of interior net public area with no authorization for permanent outdoor dining.
2. The expanded dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. A resident has filed complaints regarding operating outside of authorized hours and excessive noise. If founded, those complaints have been addressed through enforcement measures outlined in the NBMC, as they are received by the Code Enforcement Division. The operation of the expanded dining area is limited to up to a one (1)-year beginning January 1, 2022 and has been reviewed and conditioned to

help preclude any detriment to the general welfare of the area. The Code Enforcement Division will continue to ensure all conditions of approval are abided by.

3. Restaurants and outdoor dining areas are common on the Balboa Peninsula. Specifically in this location, the Cannery Village/15th Street neighborhood is zoned for mixed-use development, which places nonresidential and residential uses in proximity to each other. Nonresidential activity is expected and encouraged by the General Plan, Coastal Land Use Plan and NBMC. The allowed hours of operation for the restaurant are 7 a.m. through 10 p.m., daily. To help ensure harmony with the nearby residential uses, the temporary outdoor dining area will have more limited hours closing by 9 p.m., Monday through Thursday, and by 10 p.m. Friday through Sunday.
4. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The plan includes appropriate delineation of outdoor use spaces with physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is 4,186 square feet and is developed with a 1,980 square-foot, single-story, single-tenant commercial building, along with eight (8) off-street parking spaces. Prior to the existing food service use, the tenant space was occupied by a take-out service, limited use. The temporarily expanded parking area takes up three (3) parking spaces at the front on 30th Street, leaving a single ADA accessible parking space. Based upon the site plan, there is adequate area to accommodate the expanded dining area without impacting pedestrian circulation and coastal access.
2. The lot is bounded by 30th Street to the south, an alley to the north, a commercial use to the west and a mixed-use structure to the east. Existing food service uses with outdoor dining are located nearby and are intermixed with other nonresidential and residential uses. As conditioned, the temporarily expanded outdoor dining area will not impede use

and enjoyment of other properties in the mixed-use neighborhood, and it is expected to continue to add to the ambiance and character of the Balboa Peninsula area.

Finding:

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

Facts in Support of Finding:

1. The subject lot is accessed from 30th Street and an alley. There are five (5) parking spaces available to serve the restaurant in addition to bicycle racks for those riding bicycles to the restaurant. Sufficient parking is provided on-site and no traffic issues are anticipated with the continued temporary use of the expanded dining area.
2. The City is also undergoing an analysis of parking rates, including rates related to food service and outdoor dining. Initial findings and recommendations of this study were presented at a City Council study session on November 30, 2021. Preliminarily, the study found that food service parking requirements should be lowered and that rideshare service drop-off/pick-up areas or alternative modes of transportation should be considered. This information will ultimately inform future revisions to the Zoning Code, which may support future use permit amendments for permanent outdoor dining areas.

Finding:

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

Facts in Support of Finding:

1. The existing food service use has operated at the subject property since 2019, and the temporarily expanded outdoor dining area has been in operation since 2020. There have been no complaints about lack of parking in the area, which is developed with a mixture of residential and nonresidential uses. This type of development and its adjacency to the harbor and other coastal resources tend to serve as a shared-trip parking supply wherein people are parking once and visiting multiple locations. The parking is expected to adequately accommodate the temporary use for up to a one (1)-year term (January 1, 2022 through December 31, 2022).
2. The temporarily expanded dining area will not impede pedestrian access along the sidewalk.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use category for this site is MU-H4 (Mixed-Use Horizontal). The MU-H4 category is applied to properties where it is the intent to establish the character of a distinct and cohesively developed district or neighborhood containing multi-family residential with clusters of mixed-use and/or commercial buildings in such locations as the interior parcels of Cannery Village and 15th Street. The subject lot is in line with the block and is not on a corner. The expanded outdoor dining use is accessory to the existing food service use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the MU-H4 category.
2. The site is in the MU-CV/15TH ST (Mixed-Use Cannery Village/15th Street) Zoning District. The MU-CV/15TH ST designation applies to areas where it is the intent to establish a cohesively developed district or neighborhood containing multi-unit residential dwelling units with clusters of mixed-use and/or commercial structures on interior lots of Cannery Village and 15th Street. Allowed uses may include multi-unit dwelling units; nonresidential uses; and/or mixed-use structures, where the ground floor is restricted to nonresidential uses along the street frontage. Residential uses and overnight accommodations are allowed above the ground floor and to the rear of uses along the street frontage. Mixed-use or nonresidential structures are required on lots at street intersections and are allowed, but not required, on other lots. The MU-CV/15TH ST District allows food service uses and the expanded dining area is a temporary use, authorized with a limited term permit.
3. The Limited Term Permit for temporarily expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the Balboa Peninsula area in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy

recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Balboa Peninsula community.

5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. 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 viewpoints are on Lido Park Drive and at Lido Park, which are at least 775 feet east from the project site. The expanded outdoor dining tables comply with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development in the Balboa Peninsula. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
2. The property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area and barrier within the public walkway are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. Development authorized by this permit is not located in any environmentally sensitive habitat (ESHA) area and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
4. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline.

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) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-010 and Coastal Development Permit No. CD2021-039 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 and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit and Coastal Development Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Sections 20.52.040(J) (Extension of Limited Term Permit) and 21.54.060 (Time Limits and Extensions) of the NBMC. The Applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *On or before January 31, 2022, the Applicant shall either obtain necessary building permit approvals for the existing patio cover or it shall be removed.*
4. *The expanded dining area shall not exceed 550 square feet in area.*
5. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 9 p.m., Monday through Thursday and 10 p.m., Friday through Sunday.*
6. *There shall be no use of amplified sound and/or live entertainment.*
7. *The Applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
8. *The sidewalk and all adjoining public rights-of-way shall remain free and clear from any obstructions.*
9. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the Applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
10. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
11. The establishment shall abide by all applicable Orange County Health Care Agency requirements.

12. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
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 approval.
15. This Limited Term Permit and Coastal Development Permit 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
17. 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 this Limited Term Permit No. XP2021-010 and Coastal Development Permit No. CD2021-039 (PA2021-188) for ARC Butcher & Baker Temporary Outdoor Expansion. 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

18. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.

- d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
19. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

Fire Department

20. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
- Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
 - If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
 - LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
 - Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
 - Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.
21. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
22. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
23. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
24. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
- a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.

- b. Electric heaters must be UL listed for use within tents and/or canopies.
- c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
- d. All heating equipment installations shall be approved for the Fire Code official.

Public Works Department

- 25. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
- 26. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
- 27. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
- 28. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided.

RESOLUTION NO. ZA2021-083

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-017 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-045 TO ALLOW A TEMPORARILY EXPANDED OUTDOOR DINING AREA LOCATED AT 2406 NEWPORT BOULEVARD (PA2021-195)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by RPM Enterprises, LLC, with respect to property located at 2406 Newport Boulevard, and legally described as Parcel No. 1 of Parcel Map 57-25 (Resubdivision No. 375), requesting approval of a limited term permit and a coastal development permit.
2. A request to allow a 6,200-square-foot expanded dining area that was previously authorized through Emergency Temporary Use Permit No. UP2020-160 (PA2020-278) for up to a one (1)-year term (January 1, 2022, through December 31, 2022). As conditioned, the temporarily expanded area will be reduced to no more than 1,000 square feet, which is consistent with other establishments with temporarily expanded outdoor operations.
3. The subject property is categorized MU-W2 (Mixed-Use Water 2) by the General Plan Land Use Element and is located within the MU-W2 (Mixed-Use Water) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related) and it is located within the MU-W2 (Mixed-Use Water) Coastal Zoning district.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures), respectively, 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 1 exemption includes 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. The

Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The scope of work is a maximum 1,000-square-foot expanded outdoor dining patio at an existing establishment for up to a one (1)-year limited term (January 1, 2022, through December 31, 2022) and qualifies under the parameters of the Class 1 and Class 3 exemptions.

3. The exceptions to the Class 3 Categorical Exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

In accordance with Section 20.52.040(G) (Limited Term Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term (January 1, 2022 through December 31, 2022) while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP1581 and its subsequent amendments.
2. The expanded dining area authorized by Emergency Temporary Use Permit No. UP2020-160 (PA2020-278) has not posed a hazard to the general welfare of persons residing in the area. While complaints have been received regarding the operation related to noise, the 5,200-square-foot reduction will result in a more limited operation that should help alleviate any future noise issues. Furthermore, the operation of the expanded dining area is limited up to one (1)-year beginning January 1, 2022 and has been reviewed and conditioned to help preclude any detriment to the general welfare of the area.
3. Outdoor dining areas are common in the Balboa Peninsula area and have been used at the subject property during similar hours in the past; and the use has not proven

detrimental. The existing establishment is allowed to be open until 2 a.m., daily. However, in order to ensure harmony with other nearby nonresidential and residential uses, the temporary outdoor dining area is conditioned to close by 10 p.m., daily.

4. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The plan includes appropriate delineation of outdoor use spaces with physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is 14,746 square feet and is developed with a single-tenant commercial building currently occupied by The Peninsula Lounge. In 2020, the establishment was authorized a temporarily expanded area of 6,200 square feet, occupying twelve (12) parking spaces. Given the 5,200-square-foot reduction, it is anticipated there is more than adequate area to accommodate the expanded dining area without impacting pedestrian circulation and coastal access.
2. The lot is bounded by Newport Bay to the east, Newport Boulevard to the west, and commercial uses to the north and south. Existing food service uses with outdoor dining and commercial tenants are located at this site and nearby. The expanded outdoor dining use will not impede use and enjoyment of other users in the area and will instead add to the ambiance and character of the Balboa Peninsula.

Finding:

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

Facts in Support of Finding:

1. The subject lot is accessed from Newport Boulevard. A surface parking lot is provided on-site, with additional metered street parking on Balboa Boulevard. Given the reduction in area, there will be sufficient parking is provided on-site and no traffic issues are anticipated with the continued use of the temporarily expanded dining area for a one (1)-year duration.
2. It is also notable that the City is undergoing an analysis of parking rates, including rates related to food service and outdoor dining. Initial findings and recommendations of this study were presented at a City Council study session on November 30. Preliminarily, the study found that food service parking requirements should be lowered and that rideshare service drop-off/pick-up areas or alternative modes of transportation should be considered. This information will ultimately inform future revisions to the Zoning Code, which may support future use permit amendments for permanent outdoor dining areas.

Finding:

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

Facts in Support of Finding:

1. A food service use with outdoor dining has operated at the subject property since the 1970s. The existing surface parking lot has historically served as the primary parking supply for patrons. With the reduction in size, the parking is expected to adequately accommodate the temporary use for up to a one (1)-year term (January 1, 2022 through December 31, 2022).
2. The expanded dining area will not impede pedestrian access to the waterfront.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use category for this site is MU-W2 (Mixed-Use Water 2). The MU-W2 designation is applied to waterfront locations in which marine-related uses may be intermixed with buildings that provide residential on the upper floors. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the MU-W2 designation.
2. The site is located in the MU-W2 (Mixed-Use Water) Zoning District. The MU-W2 designation 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. The MU-W2 zoning district allows food service uses and the expanded dining area is a temporary use, authorized with a limited term permit.

3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the Balboa Peninsula area in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU2, below. Additional benefits include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Balboa Peninsula community.
5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The project site is not located adjacent to a coastal view road or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is near Marina Park, which is approximately 2,500 feet east from the project site. The expanded outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development in the Balboa Peninsula. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
2. The property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area and barrier within the public walkway are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. As conditioned, there will be a substantial barrier installed within the on-site parking lot to delineate the reduced outdoor dining area. There are no existing City utilities within the expanded dining area.
4. Development authorized by this permit is not located in any environmentally sensitive habitat (ESHA) area and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
5. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (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, vertical access to the coast is provided via 21st and 26th Streets, as well as through the Vue Newport development. Lateral access is provided via a 5-foot pedestrian

easement abutting the Newport Bay to the southeast along the Vue Newport development. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-017 and Coastal Development Permit No. CD2021-045 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 and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit and Coastal Development Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Sections 20.52.040(J) (Extension of Limited Term Permit) and 21.54.060 (Time Limits and Extensions). The Applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *Prior to continuing use in 2022, the expanded dining area shall be re-designed and re-configured to not exceed 1,000 square feet. The new design is subject to review and approval of the Building Division, Fire Department, and Public Works Department.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 10 p.m., daily.*
5. *There shall be no use of amplified sound and/or live entertainment in the temporarily expanded outdoor area.*
6. *There shall be no music or sound played from the interior that is audible to patrons in the temporarily expanded outdoor area.*
7. *The Applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
8. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the Applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
9. The sale of alcohol “to go” to patrons that dine within the expanded outdoor patios shall be prohibited.
10. The establishment shall abide by all applicable Orange County Health Care Agency requirements.

11. The permittee shall provide adequate trash receptacles within the permitted patio and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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.
14. This Limited Term Permit and 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.
15. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
16. 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 this Limited Term Permit No. XP2021-017 and Coastal Development Permit No. CD2021-045 (PA2021-195) for The Peninsula Lounge Temporary Outdoor Expansion. 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

17. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.

- e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
18. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

Fire Department

19. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (2 or more walls) and/or canopies larger than 700 square feet (no walls or one (1) wall):
- Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
 - If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
 - LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
 - Tents and canopies shall have the State Fire Marshall tag indicating fire resistance.
 - Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.
20. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a three-foot clearance in all directions.
21. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
22. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
23. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
- a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be ul listed for use within tents and/or canopies.

- c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
- d. All heating equipment installations shall be approved for the fire code official.

Public Works Department

- 24. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
- 25. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
- 26. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
- 27. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided.

RESOLUTION NO. ZA2021-084

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-008 TO ALLOW AN EXPANDED OUTDOOR DINING AREA LOCATED AT 3520 EAST COAST HIGHWAY (PA2021-189)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by El Cholo Corona Del Mar, with respect to property located at 3520 East Coast Highway, and legally described as Parcel 1 of Resubdivision 645 in the City of Newport Beach, Orange County, California, requesting approval of a limited term permit.
2. A request for a limited term to allow a 520-square-foot maximum expanded dining area for up to a one (1)-year term (January 1, 2022 through December 31, 2022). An expanded dining area was previously authorized through Emergency Temporary Use Permit No. UP2020-030 (PA2020-103) for El Cholo Corona del Mar.
3. The subject property is designated CC (Corridor Commercial) by the General Plan Land Use Element and is located within the CC (Commercial Corridor) Zoning District.
4. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is a maximum 520-square-foot expanded outdoor dining patio at an existing restaurant for up to a one (1)-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP1980A which allows 2,250 square feet of interior net public area and 1,026-square-foot outdoor net public area.
2. The proposed outdoor dining area is located adjacent to the existing outdoor patio area approved under UP1980A. The additional outdoor dining area is a logical extension of the existing patio area and is located on private property. The expanded patio is located within a driveway that connects Coast Highway to the alley in the rear of the property, which is not currently being utilized. Adequate barriers will be required to protect the expanded patio area from motorists on Coast Highway.
3. The expanded dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. The operation of the expanded dining area is limited to up to a one (1)-year beginning January 1, 2022, through December 31, 2022, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
4. Outdoor dining areas are common in the Corona del Mar commercial corridor, have been used at the subject property during similar hours in the past and the use has not proven detrimental. The existing hours of operation for the restaurant are 11:30 a.m. through 9:00

p.m., daily. The expanded outdoor dining area would close by 9:00 p.m. daily, as required by Condition No. 4.

4. A condition of approval related to heaters is incorporated as Condition of Approval No. 26. If the proposed plan is modified to include a tent, then it must comply with the fire requirements outlined in Condition No. 27.
5. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
6. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
7. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
8. The overall plan includes appropriate delineation of outdoor use spaces with physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.19 acre in size and is a gently sloping property adjacent to East Coast Highway. The existing food service use with outdoor dining has operated at this location since its original approval in 1980. Based upon the site plan, there is adequate area to accommodate the expanded dining area without impacting pedestrian circulation, since the expanded patio is located entirely on private property.
2. The lot is bounded by East Coast Highway to the west with residential properties inland to the east. To the north is an adjacent office/retail property within Commercial Corridor zoning district. To the south are additional restaurant (Rose Bakery) and retail properties within the Commercial Corridor zoning district. Existing food service uses with outdoor dining and retail tenants are located at this site. The expanded outdoor dining use will not impede use and enjoyment of the properties in the area and will instead add to the ambiance and quaint character of Corona del Mar.

Finding:

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

Facts in Support of Finding:

1. The subject lot is accessed from East Coast Highway and the alley in the rear of the property. A surface parking area is provided across the alley. The existing food service use, (El Cholo), is located in a commercial corridor area and proposes to operate all day and into the evening hours with peak hours when other retail and office uses on the property are typically not operating. Sufficient parking is provided on-site and no traffic issues are anticipated with the continued use of the expanded dining area.
2. The City is also undergoing an analysis of parking rates including rates related to food service and outdoor dining. Findings and recommendations of this study are anticipated by December of 2021, and may inform a future conditional use permit amendment for outdoor dining areas.

Finding:

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

Facts in Support of Finding:

1. The existing food service use with outdoor dining has operated at the subject property since 1980. The existing surface parking lot has historically served as the primary parking supply for patrons. The surface lot is expected to adequately accommodate the temporary use for up to a one (1)-year term.
2. The expanded dining area is located inland of Coast Highway outside of the coastal zone and will not impede pedestrian access to or parking for the waterfront.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is CC (Corridor Commercial). The CC designation is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The expanded outdoor dining use is accessory to the existing food service use with outdoor

dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CC designation. Outdoor dining is a use that tends to foster additional pedestrian activity.

2. The site is located in the CC (Commercial Corridor) Zoning District. The CC designation is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The CC zoning district allows food service uses and the expanded dining area is a temporary use, authorized with a limited term permit.
3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the CC Zoning District of Corona del Mar in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU2, below. Additional benefits include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Corona del Mar community.
5. The site is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section

15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-189 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 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit shall be effective for up to a one (1)-year term January 1, 2022, to December 31, 2022. The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this Limited Term Permit on or before December 31, 2022.
3. *The expanded dining area shall not exceed 520 square feet in area.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of hours of operation of the expanded area as part of this approval shall not extend beyond 9 p.m., daily.*
5. *There shall be no use of amplified sound.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
8. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
9. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
10. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
11. The Community Development Director or designee may inspect the modified area at any time during normal business hours.

12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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.
14. This Limited Term Permit 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.
15. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit.
16. 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 this **Limited Term Permit No. XP2021-189 (PA2021-008) for El Cholo**. 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

17. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
18. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

19. All tops of dining and work surfaces shall be 28 inches to 34 inches above the finish floor.

Fire Department

20. Fire lane(s) shall be identified on the plan.
21. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
22. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
23. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a three-foot clearance in all directions.
24. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
25. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
26. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
 - a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be UL listed for use within tents and/or canopies.
 - c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved for the fire code official.
27. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (2 or more walls) and/or canopies larger than 700 square feet (no walls or one (1) wall):
 - Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.
 - Visible and Mounted Fire Extinguishers with current service tags.
 - No Smoking Signs shall be installed.
 - Illuminated Exit Signs shall be installed.
 - Emergency Lighting shall be provided.
 - Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
 - All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.

- If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
- LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
- Tents and canopies shall have the State Fire Marshall tag indicating fire resistance.
- Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

Public Works Department

28. The Applicant shall install and maintain a substantial physical barrier (water-filled traffic barrier or K-rail between any area used and adjacent to any street, driveway, or parking area).
29. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
30. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
31. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
32. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided in Attachment No. ZA 3.

RESOLUTION NO. ZA2021-085

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-022 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-047 TO ALLOW AN EXPANDED OUTDOOR DINING AREA LOCATED AT 114 MC FADDEN PLACE (PA2021-201)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Baja Sharkeez with respect to property located at 114 Mc Fadden Place, and legally described as Parcel 1 of Resubdivision No. 493 in the City of Newport Beach, Orange County, California, requesting approval of a limited term permit and a coastal development permit.
2. A request for a limited term and coastal development permit to allow a 900-square-foot maximum expanded dining area for up to a one (1)-year term (January 1, 2022 through December 31, 2022). An expanded dining area of 2,400 square feet was previously authorized through Emergency Temporary Use Permit (ETUP) No. UP2020-155 (PA2020-269) for Baja Sharkeez. The proposed dining area is 900 square feet, which represents a reduction of 1,500 square feet from the ETUP.
3. The subject property is designated Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element and is located within the Mixed-Use Water (MU-W2) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is located within the Mixed-Use Water (MU-W2) Coastal Zoning district.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is a maximum 900-square-foot expanded outdoor dining patio at an existing restaurant for up to a one (1)-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. UP2017-034 (PA2017-255) and includes approximately 1,813 square feet of net public area with a 203-square-foot outdoor dining patio.
2. The expanded dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. The operation of the expanded dining area is limited to up to a one (1)-year beginning January 1, 2022, through December 31, 2022, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
3. Outdoor dining areas are common on the Newport Peninsula and Mc Fadden Square and have been used at the subject property during similar hours in the past. The existing patio

use has not proven detrimental. Generally, the existing hours of operation for the restaurant are 9:00 a.m. through 1:30 a.m., daily (a portion of the space closes at 11:00 p.m.). The expanded outdoor dining area would close by 9:00 p.m., Monday through Thursday, and by 10:00 p.m., Friday through Sunday, as required by Condition of Approval No. 4. Therefore, no late hours are proposed for the expanded outdoor patio.

4. A condition of approval related to heaters is incorporated as Condition of Approval No. 27. If the proposed dining area is revised to include a tent or cover, the applicant must comply with the fire requirements outlined in Condition of Approval No. 28.
5. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
6. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
7. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
8. The overall plan includes appropriate delineation of outdoor use spaces with physical barriers or markers.
9. The expanded dining area will not impede pedestrian coastal access since the proposed patio would be located entirely within private property and is not directly adjacent to the water or beach. Access to the beach is provided in front of the restaurant along the Mc Fadden Place sidewalk.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 0.18 acre in size and is relatively flat. The existing space has operated as a food service use at this location since the 1970s. Based upon the site plan, there is adequate area to accommodate the expanded dining area without impacting pedestrian circulation and coastal access.
2. The lot is bounded by Mc Fadden Place to the northwest with the Mc Fadden Square parking lot and restaurants located across the street. To the south and southeast are residentially zoned properties. Many existing food service uses with outdoor dining and retail tenants are located throughout the Mc Fadden Square area. The expanded outdoor

dining use will not impede use and enjoyment of the properties in the area and will instead add to the ambiance and vibrant character of Mc Fadden Square.

3. The expanded patio area is located in the parking lot at the rear of the subject building. The patio has been significantly reduced in scale from the patio that was authorized under ETUP No. UP2020-155, from approximately 2,400 square feet to 900 square feet. Under the ETUP No. UP2020-155 approval, only the accessible stall (one [1] parking space) was maintained as available for parking. Under the proposed project, the expanded dining area will occupy five (5) standard parking spaces and the existing striped accessible space will remain in its approved location. The project will provide access to five (5) parking stalls.
4. In order to reduce the number of vehicles driving or maneuvering near the patio, one (1) lane of parking has been allocated to the patio with the available parking area located across the drive aisle separate from the patio. The Public Works Department has reviewed the design and determined it is acceptable on a limited term basis (one [1] year). Based on the proposed configuration, no traffic or site circulation issues are anticipated.
6. The location of the patio has been pulled back from the property line and the five (5) parking spaces would provide an additional buffer from the patio to the residential uses. The City has not received any complaints regarding the location or use of this patio.
7. The expanded patio area would be required to close at 9:00 p.m. on weekdays (Sunday to Thursday) and 10:00 p.m. on weekends (Friday and Saturday) which would reduce impacts related to nighttime noise emanating from the patio area.
8. The proposed parking configuration allows for access to the accessible stall and the adjacent alley, street, and sidewalk without impediment.

Finding:

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

Facts in Support of Finding:

1. The subject lot is accessed from West Balboa Boulevard and Mc Fadden Place. A surface parking area is provided on-site with 10 parking spaces. The expanded dining area will occupy no more than five (5) standard parking spaces (one row of parking stalls). The existing food service use, Baja Sharkeez, is located in a commercial plaza and proposes to operate all day and into the evening hours with peak hours when other retail and office uses near the property are typically not operating. Sufficient parking is provided on-site and within the public parking lot and no traffic issues are anticipated with the continued use of the expanded dining area.
2. The City is also undergoing an analysis of parking rates, including rates related to food service and outdoor dining. Initial findings and recommendations of this study were

presented at a City Council study session on November 30, 2021. Preliminarily, the study found that food service parking requirements should be lowered and that rideshare service drop-off/pick-up areas or alternative modes of transportation should be considered. This information will ultimately inform future revisions to the Zoning Code, which may support future use permit amendments for permanent outdoor dining areas.

Finding:

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

Facts in Support of Finding:

1. The existing food service use with outdoor dining (Baja Sharkeez) has operated at the subject property since the 1990s, and the property has been used for food service uses since the 1970s. The existing surface parking lot has historically served as the employee parking supply with patrons parking in the public lot adjacent to the site or using alternative methods of transportation (rideshare, bike, walking). The surface lot is expected to adequately accommodate the temporary use for up to a one (1)-year term. The applicant has continued to pay in-lieu parking fees to support the City's public parking lot and would continue to do so through the duration of the project.
2. The expanded dining area will not impede pedestrian access to the waterfront as there is adequate access via the sidewalk along the front of the building.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is MU-W2 (Mixed-Use Water 2) and the Coastal Land Use Plan designation is MU-W (Mixed-Use Water Related). The MU-W2/MU-W designations are intended to provide for waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial and residential dwelling units on the upper floors. The expanded outdoor dining use is accessory to the existing food service use with outdoor dining, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the MU-W2 designation. Outdoor dining is a use that tends to foster additional pedestrian and visitor activity.
2. The site is located in the MU-W2 (Mixed Use Water) Zoning District and Coastal Zoning District. The MU-W2 designation is intended to provide for waterfront locations in which marine-related uses may be intermixed with buildings that provide residential on the upper floors. The MU-2 zoning district allows food service uses and the expanded dining area is a temporary use, authorized with a limited term permit.

3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the MU-W2 Zoning District of Mc Fadden Square in that it provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Peninsula.
5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The project site is not located adjacent to a coastal view road or coastal viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is on the end of the Newport Pier and not visible from the site due to distance and an intervening building that obstructs views. The proposed patio area is located within the existing on-site parking lot

at the rear of the site. Establishing a vibrant outdoor dining patio could improve the aesthetics of the site by providing a more active use than parking. The existing building would not be modified as part of this limited term application. The expanded outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development in Mc Fadden Square. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

2. The project is located adjacent to Mc Fadden Square which is accessible to the public and provides opportunities to view and access the beach as well as other amenities. As currently developed, the existing restaurant building and other business are located within the viewshed of the beach and shoreline. However, the outdoor patio is not likely to be visible from the beach due to its location behind the existing restaurant. Further, the project maintains an envelope consistent with the existing neighborhood pattern of development.
3. The Property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area is considered a minor detached structure. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
4. Improvements are complementary to the area; the subject restaurant and adjacent neighbors have similar outdoor dining improvements within the walkways and parking areas of Mc Fadden Square.
5. The proposed outdoor dining area would be located completely within private property.
6. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area.
7. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a temporary outdoor patio that is located within the on-site parking lot. The project is designed and sited so as not to block or impede existing public access opportunities. The additional patio area would serve as an amenity to residents and visitors in the area.
2. Vertical access to the beach is available adjacent to the project within the Mc Fadden Place plaza and Newport Pier. Lateral access is available to the beach to the west of the site. The public beach is also the start of a 6-foot-wide public sidewalk providing lateral access and views of the ocean. The project does not include any features that would obstruct access along these routes.
3. The existing 10-space parking lot is primarily used by employees of Baja Sharkeez. The reduction in parking of five (5) spaces on a temporary basis would not create a substantial impediment to public access and parking opportunities in 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-022 and Coastal Development Permit No. CD2021-047 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 and Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit and Coastal Development Permit shall be effective for up to a one (1)-year term January 1, 2022, to December 31, 2022. The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this Limited Term Permit on or before December 31, 2022.
3. *The expanded dining area shall not exceed 900 square feet in area.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 9 p.m., Monday through Thursday, and will close by 10:00 p.m., Friday through Sunday.*
5. *There shall be no use of amplified sound.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
8. *All owners, managers, and employees selling and serving alcohol shall comply with all ABC guidelines and regulations and shall further take all measures necessary to prevent over-service of alcohol and/or disorderly conduct from patrons. Increased calls for Police Department service to the establishment or complaints made to the City will cause a review of operations and may result in a revocation of this permit.*
9. The sale of alcohol “to go” to patrons that dine within the expanded outdoor patios shall be prohibited.
10. The establishment shall abide by all applicable Orange County Health Care Agency requirements.

11. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
12. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
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 approval.
15. This Limited Term Permit and Coastal Development Permit 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
17. 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 this **Limited Term Permit No. XP2021-022 and Coastal Development Permit No. CD2021-047 (PA2021-201) for Baja Sharkeez**. 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

18. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.

- c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
19. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
 20. All tops of dining and work surfaces shall be 28 to 34 inches above the finish floor.

Fire Department

21. Fire lane(s) shall be identified on the plan.
22. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
23. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
24. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
25. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
26. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.
27. Heat lamps or other heating elements shall comply with the following requirements in accordance with code section 3107.12 of the California Fire Code:
 - a. Propane and other fuel-based heating elements (including but not limited to flammable/combustible gas, liquid, or solid materials) shall not be used within tents or canopies.
 - b. Electric heaters must be UL listed for use within tents and/or canopies.
 - c. Propane and other fuel-based heating devices with blowers may be permitted, with the heating element located a minimum of 10 feet from the edge of the tent or canopy.
 - d. All heating equipment installations shall be approved for the Fire Code official.
28. Covered outdoor dining areas (separate or consolidated) shall comply with the following standards for tents larger than 400 square feet (two [2] or more walls) and/or canopies larger than 700 square feet (no walls or one [1] wall):
 - Post maximum occupant load.
 - Do not exceed posted occupant load inside the tent or canopy.

- Visible and Mounted Fire Extinguishers with current service tags.
- No Smoking Signs shall be installed.
- Illuminated Exit Signs shall be installed.
- Emergency Lighting shall be provided.
- Exit doors are not to be blocked and are to remain accessible as exits while the tent is occupied.
- All interior decorative fabrics or materials shall be flame resistant. Provide Certificates of Flame Resistance.
- If Propane is used, a permit is required: Cooking and heating equipment shall not be located within 10 feet of exits or combustible materials.
- LPG containers shall be located outside and be adequately protected and secured, and a permit will be required. Open flame or other devices emitting flame, such as candles, are not permitted inside or within 20 feet of the tent, canopy, or temporary membrane structure.
- Tents and canopies shall have the State Fire Marshal tag indicating fire resistance.
- Tents and canopies shall be designed and installed to withstand the elements of the weather and prevent collapsing through weights and ground anchorage.

Public Works Department

29. The Applicant shall install and maintain a substantial physical barrier (water-filled traffic barrier or K-rail between any area used and adjacent to any street, driveway, or parking area).
30. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
31. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
32. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
33. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided.

RESOLUTION NO. ZA2021-086

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MINOR USE PERMIT NO. UP2021-033 TO ADD A TYPE 57 ALCOHOL BEVERAGE CONTROL (ABC) LICENSE TO AN EXISTING TENNIS CLUBHOUSE BUILDING LOCATED AT 1602 EAST COAST HIGHWAY, 5 AND 11 CLUBHOUSE DRIVE (PA2021-210)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Clubhouse ATP LLC, with respect to property located at 1602 East Coast Highway, 5 and 11 Clubhouse Drive, and legally described as Parcels C and D of Parcel Map No. 2016-151 requesting approval of a minor use permit.
2. The applicant requests a minor use permit to operate the existing lounge area in the Tennis Clubhouse building in conjunction with a Type 57 (Special On-Sale General) Alcoholic Beverage Control (ABC) License. The Type 57 ABC License would authorize the sale of beer, wine, and distilled spirits to members and guests only for consumption on the premises, among other privileges. No food service is required but the grill will offer packaged food, light meals, and snacks. No construction, late hours (after 11:00 p.m.), live entertainment, or dancing are proposed.
3. The subject property is designated MU-H3/PR (Mixed-Use Horizontal 3/ Parks and Recreation) by the General Plan Land Use Element and is located within the PC47 (Newport Beach Country Club) District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-H/PR (Mixed-Use Horizontal / Parks and Recreation) and it is located within PC47 (Newport Beach Country Club) Coastal Zone District. The proposed project includes the establishment of a new Type 57 ABC License, with no construction or operational changes that would result in an intensification of the existing use. Therefore, the project is exempt from coastal development permit requirements.
5. A public hearing was held on December 16th, 2021 online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

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.

The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves the addition of the Type 57 ABC License to the existing tennis clubhouse with no other alterations or changes.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

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

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The subject property is located in Reporting District 39 (RD 39), which includes Fashion Island shopping and entertainment district.
 2. The Part One Crimes (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) crime rate in RD 39 is higher than adjacent Reporting Districts RD 43, 38, and 44 and the City overall.
 3. The highest volume crime in this area is shoplifting. The highest volume arrests in the area are drug related offenses. DUI, Public Intoxication, and liquor law violations make up 16 percent of arrests in this reporting district. In comparison, the figure for neighboring RD 43 is 17 percent, RD 38 is 23 percent and RD 44 is 18 percent.
 4. The Police Department has reviewed the proposal, provided operating conditions of approval, and has no objection to the addition of the alcoholic beverage license. The operation of the establishment includes the approved floor plan and a closing hour of 11:00 p.m.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. The total number of alcohol-related calls for service, crimes, or arrests in RD 39 is lower than neighboring reporting districts. The Police Department has reviewed the proposal and has no objection.

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2. There has been one Part 1 crime reported at the Tennis Club site in the last reporting cycle and no Part I arrests.
- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. The eating and drinking establishment is located within the Tennis Club site of PC47, which was intended for recreational uses such as a tennis clubhouse. The property is not located within close proximity to any day care centers, hospitals, places of worship, schools, or similar uses that attract minors. The subject tennis clubhouse building is located within the Tennis Club complex, which is a recreational use open to members and guests of the tennis club. The property is not open to the public. The nearest residential uses are behind the tennis courts in the Granville community. Eating and drinking establishments with incidental alcohol service are common in Country Clubs and Tennis Clubs and the proposed change in Alcoholic Beverage Control license type is not anticipated to alter the operational characteristics of the use such that it becomes detrimental to the area.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. Currently there are no other establishments that sell alcohol within the tennis club complex. The closest establishment with an alcohol license is the Newport Beach County Club located at 100 Clubhouse Drive. There is no evidence suggesting this use has been detrimental to surrounding properties or the neighborhood.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions.*
1. An eating and drinking establishment with intermittent alcohol service has operated at the subject property since 1970 with no operating issues or complaints.
 2. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of members and guests recreating at the tennis club. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.
 3. The existing hours of operation of the establishment will minimize the potential effects on land use. The establishment closes by 11:00 p.m., daily, which will ensure the use does not become a late night bar, tavern, or nightclub.
 4. The establishment is located within the existing tennis club which is developed with recreation uses. Adding the alcohol beverage control license will not alter the existing

operation of the tennis club complex but will complement the food service in the Clubhouse and provide a convenience to members and guests.

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

Finding:

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

Facts in Support of Finding:

1. The General Plan designates the site as MU-H3/PR (Mixed-Use Horizontal and Parks and Recreation). The MU-H3 designation applies to properties located in Newport Center. It provides for the horizontal intermixing of regional commercial office, hotel, multi-family residential and ancillary commercial uses. Within the Tennis Club, residential uses may be developed as single-family units. The PR designation applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The proposed Type 57 ABC License would support the existing tennis club complex, an allowed use within the General Plan Land Use Designations.
2. The existing tennis clubhouse establishment is located within the Newport Beach tennis club complex along East Coast Highway which provides recreational opportunities to members and guests, consistent with the MU-H3/PR land use designation.
3. The subject property is not a part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located in Planned Community PC47 (Newport Beach Country Club) Zoning District, which includes the Golf Club, Tennis Club, Bungalows and Villas facilities totaling approximately 140 acres. The subject building (tennis clubhouse) is located within the Tennis Club site of PC47, which was intended to provide for recreational uses such as a tennis clubhouse, tennis shop, restroom and locker facilities, spectator seating areas, etc. Concession uses are allowed by right as an ancillary use to the Tennis Club, and the sale and service of alcohol (until 11:00 p.m.) is allowed subject to the approval of a minor use permit.

2. The existing establishment operates pursuant to Use Permit No. UP1492C which allowed the existing clubhouse lounge to operate with hours from 9:00 a.m. to 11:00 p.m. daily.
3. The use will remain an ancillary eating and drinking establishment for the tennis club complex and the addition of the ABC Type 57 license will not alter or intensify the existing use. Further, there will be no change to the floor area or the hours of operation.

Finding:

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

Facts in Support of Finding:

1. The addition of the alcohol license does not change the operating characteristics of the existing eating and drinking establishment.
2. The eating and drinking establishment will remain complementary to the other uses and buildings within the tennis club site. The tennis clubhouse will continue to be an ancillary use and contribute to the existing operations of the Tennis Club.
3. The eating and drinking establishment will continue to provide a convenience for tennis club members and guests, and the proposed ABC License will not result in increased demand for parking in the existing surface parking lots.

Finding:

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

Facts in Support of Finding:

1. The existing eating and drinking establishment within the Newport Beach Tennis Club has proven to be physically suitable in terms of design, location, shape, and size to support the use. The physical characteristics of the site are not changing with the addition of the alcohol license. Alcohol service has existed on the site in the past and would be reinstated as part of this use permit for members and their guests only.
2. Adequate public and emergency vehicle access, public services, and utilities are provided for on-site.

Finding:

- F. 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 project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The eating and drinking establishment will continue to service the Newport Beach Tennis Club as a convenience to the tennis club members and guests recreating at the facility. The proposed closing hour of 11:00 p.m. and limited nature of the Type 57 ABC License, which only allows the sales and service to members and guests, will limit the potential impacts to the surrounding neighborhood. Further, the Tennis Clubhouse is located in the center of the Tennis Club and away from any residential or sensitive uses.
3. The service of alcohol will continue to complement the principal use of the facility and provide an economic opportunity for the property owner to maintain a successful business in a way which best serves the community.

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 UP2021-033, 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 16TH DAY OF DECEMBER, 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. *All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.*
5. *Use Permit No. UP2021-033 and 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.*
6. 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.
7. 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.
8. 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.
9. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.

10. 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

11. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
12. No outside paging system shall be utilized in conjunction with this establishment.
13. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
14. 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.
15. 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).
16. 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.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. 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.

19. 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.
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 Tennis Clubhouse Grill including, but not limited to, UP2021-033 (PA2021-210)). 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. If construction is proposed, 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.

Police Department

22. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
23. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion

of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

24. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
25. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
26. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
27. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge is prohibited.
28. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
29. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
30. Employees shall not be permitted to consume alcohol or be under the influence of alcohol at any time during their shift.

RESOLUTION NO. ZA2021-087

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2021-040 TO INCREASE THE CAPACITY OF AN EXISTING CHILD DAY CARE HOME FROM EIGHT (8) TO FOURTEEN CHILDREN AT 1126 GOLDENROD AVENUE (PA2021-244)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Gordon Preschool, with respect to property located at 1126 Goldenrod Avenue, and legally described as Lot 67 of Tract 2202, requesting approval of a minor use permit.
2. The applicant proposes to increase the capacity of an existing child day care home from (eight) 8 to 14 children. The hours of operation are from 9:00 a.m. to 1:00 p.m., Monday through Friday. No physical changes are proposed to the existing residence, which includes three (3) existing open parking spaces on the driveway. The proposed development complies with all applicable development standards and no deviations are requested.
3. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1-6000) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 16, 2021, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Section 15301 of the California Code of Regulations (Title 14, Division 6 Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
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. The proposed project consists of the increase in occupancy for an existing child day care home use from (eight) 8 to 14 children without any physical changes to the existing dwelling.

SECTION 3. REQUIRED FINDINGS.

Child Day Care Facilities

In accordance with Section 20.48.070 (Day Care Facilities) of the Newport Beach Municipal Code, the following standards are set forth for child day care facilities:

Standard:

- A. *The operator of a small or large adult or child day care home shall obtain a license from the California Department of Social Services.*

Fact in Support of Standard:

1. The operator of the child day care home currently has an active license from the California Department of Social Services for a maximum capacity of eight (8) children. The operator is in process of obtaining a license to increase the capacity to 14 children.

Standard:

- B. *The single-family dwelling in which each small and large adult or child day care home is located shall be the principal residence of the care provider, and the use shall be clearly residential in character, and shall be accessory to the use of the property as a residence.*

Facts in Support of Standard:

1. The single-family dwelling is the principal residence of the care provider. The dwelling includes 5,442 square feet of living area and a three (3)-car garage. The dwelling includes a kitchen, four (4) bedrooms, an upstairs study area, and a subterranean-level garage, which are off-limits to children and not a part of the day care facility.
2. The hours of operation of the child day care home use is from 9:00 a.m. to 1:00 p.m. and is limited in nature as an accessory use to the residence.

Standard:

- C. *A large adult or child day care home within a residential zoning district shall not be located within five hundred (500) feet of another day care home.*

Fact in Support of Standard:

1. There are no day care facilities located within five hundred (500) feet of the subject property.

Standard:

- D. *A minimum of two off-street parking spaces as a drop-off and pick-up area shall be provided, in addition to the spaces required for the dwelling unit. A driveway may be used to provide these spaces, subject to approval by the Traffic Engineer based on traffic and pedestrian safety considerations.*

Fact in Support of Standard:

1. The existing dwelling provides three (3) open parking spaces on the existing driveway. Additionally, street parking is available on Goldenrod Avenue. The project has been reviewed by the Public Works Department and there are no improvements necessary for traffic and pedestrian safety considerations.

Standard:

- E. *In order to protect adjacent residential dwellings from noise impacts, a day care home within a residential zoning district shall only operate a maximum of fourteen (14) hours for each day between the hours of 6:00 a.m. and 8:00 p.m. and shall only conduct outdoor activities between the hours of 7:00 a.m. and 7:00 p.m.*

Fact in Support of Standard:

1. The existing hours of operation are from 9:00 a.m. to 1:00 p.m., Monday through Friday and are proposed to remain. The child day care home has previously operated with these hours without negative impacts to the surrounding neighborhood.

Minor Use Permit

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

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use Element designates the site as Single Unit Residential Detached (RS-D), which is intended for a range of detached single-family residential dwelling units on a single legal lot and does not include condominiums or cooperative housing.
2. The lot currently consists of a single-family residence with an accessory small child day care home. The proposed project is for an increase in capacity from a small child day care home (eight [8] or fewer) to a large child day care (nine [9] to fourteen [14]). The applicant proposes to have a maximum of 14 children at any time.

3. The child day care home is compatible with the surrounding neighborhood, which is comprised of single-family residences. The use provides child-care services for the surrounding neighborhood. Additionally, the limited hours of operation from 9:00 a.m. to 1:00 p.m. reduce the opportunity for negative impact to the residential neighborhood.
4. The subject property is not part of a specific plan area.

Finding:

- G. *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 zoning designation for the subject property is Single-Unit Residential (R-1-6000), which is intended to provide for areas appropriate for a range of detached single-family residential dwelling units, each located on a single legal lot, and does not include condominiums or cooperative housing. Pursuant to Zoning Code Section 20.18.020 (Residential Zoning Districts Land Uses and Permit Requirements), large child day care uses (nine [9] to 14 children) are permitted subject to the approval of a minor use permit.
2. The Zoning Code requires a three (3)-car garage for the single-unit residence. The existing three (3)-car garage complies with the requirements of the Zoning Code.

Finding:

- H. *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 subject lot is located within the Harbor View Hills Community Association, which is a residential community comprised of single-family residences. The child day care home is an accessory use to the single-unit residence, which is the primary use on the property.
2. The proposed child day care home will maintain limited hours of operation from 9:00 a.m. to 1:00 p.m., Monday through Friday for preschool instruction, and from 1:00 p.m. to 4:00 p.m. for extended care and has been conditioned to comply with the City's noise ordinance.

Finding:

- I. *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 site consists of a single-unit residence which operates an existing child day care home as an accessory use. The proposed project is for the expansion of capacity from eight (8) to 14 children and does not include any physical changes to the residence which would prohibit access.
2. The existing residence has been reviewed to ensure adequate public and emergency vehicle access, public services, and utilities were provided for on-site. The existing plans of the residence were reviewed for compliance with applicable building and fire codes.

Finding:

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

Facts in Support of Finding:

1. The existing child day care home has operated without being detrimental to the surrounding neighborhood. There is not another child day care home within 500 feet of the subject property to cause an overconcentration of this use for the neighborhood.
2. The child day care home has limited hours of operation between 9:00 a.m. and 1:00 p.m.
3. The subject property includes three (3) driveway parking spaces for drop-offs. The child care home use is not expected to create a parking issue within the neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2021-040, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. This 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.
5. 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.
6. *The applicant shall obtain a building permit to add a large day care home use to the existing single-family residence.*
7. *There shall be a maximum of 14 children for the child day care home use at any given time during operation hours.*
8. *The hours of operation are limited from 9:00 a.m. to 1:00 p.m., Monday through Friday for preschool instruction, and from 1:00 p.m. to 4:00 p.m. for extended care.*
9. *The home day care use shall comply with California Building Code Section 455 (Large Family Day-Care Homes).*
10. *The residence shall maintain a minimum of two (2) off-street parking spaces as a drop-off and pick-up area. A driveway may be used to provide these spaces.*
11. *The use shall maintain a valid and active license from the California Department of Social Services.*
12. 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.

13. 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

14. 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.
15. The exterior of the residence 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.
16. Storage outside of the building in the front of the property shall be prohibited.
17. 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.
18. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of Gordon Preschool including, but not limited to, Minor Use Permit No. UP2021-040 (PA2021-244). 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. ZA2021-088

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING LIMITED TERM PERMIT NO. XP2021-027 AND COASTAL DEVELOPMENT PERMIT NO. CD2021-051 TO ALLOW AN EXPANDED OUTDOOR DINING AREA LOCATED AT 3011 NEWPORT BOULEVARD (PA2021-205)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Malarky's Irish Pub, with respect to property located at 3011 Newport Boulevard, Assessor Parcel Numbers 047-060-01, 047-060-06, and 047-060-10, requesting approval of a limited term permit and a coastal development permit.
2. The applicant proposes an 875-square-foot maximum expanded outdoor dining area for up to a one (1)-year term that was previously authorized as two separate patios totaling 4,100 square feet through Emergency Temporary Use Permit No. UP2020-073 and Emergency Coastal Development Permit No. CD2020-080 (PA2020-155) for Malarky's Irish Pub.
3. The subject property is designated Neighborhood Commercial (CN) by the General Plan Land Use Element and is located within the Commercial Neighborhood (CN) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Neighborhood Commercial (CN) – (0.0 to 0.30 FAR) and it is located within the Commercial Neighborhood (CN) Coastal Zoning District.
5. A public hearing was held on December 16, 2021, online via Zoom. 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 15301 under Class 1 (Existing Facilities) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes 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. The

Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use. The proposed scope of work is a maximum 875-square-foot expanded outdoor dining patio at an existing restaurant for a one (1)-year limited term and qualifies under the parameters of the Class 1 and Class 3 exemptions.

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.

Limited Term Permit

In accordance with Section 20.52.040.G (Limited Term Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The limited term permit will allow an extended and expanded outdoor dining patio for up to a one (1)-year term while the City reconsiders its parking requirements related to food service uses. The existing food service use is authorized through Use Permit No. 1792 and includes 1,150 square feet of net public area.
2. The expanded outdoor dining area has not posed a hazard to the general welfare of persons residing in the area since it was placed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit No. UP2020-073 (PA2020-155), which authorized two patios totaling 4,100 square feet. The operation of the expanded outdoor dining area is limited to up to a one (1)-year, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
3. Outdoor dining areas are common within the Balboa Peninsula area, and have been used at the subject property during similar hours in the past, and the use has not proven detrimental. An 867-square-foot outdoor dining patio was recently approved for Chihuahua Brewing Company, which is located in the adjacent shopping center, The Landing. The

existing hours of operation for the interior of the restaurant are limited from 7:00 a.m. through 2:00 a.m., daily. The proposed temporary outdoor dining area would close by 9:00 p.m., Sunday through Thursday and by 10:00 p.m. on Friday and Saturday.

4. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
5. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
6. The permitted use must be operated in compliance with applicable State Department of Alcoholic Beverage Control (ABC) requirements.
7. The overall plan includes appropriate delineation of outdoor use spaces with temporary physical barriers or markers.

Finding:

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

Facts in Support of Finding:

1. The restaurant is located in on a site that is comprised of three (3) separate lots under common ownership. The combined three (3) parcels are a total of 0.53 acres in size and include the subject restaurant as well as an on-site surface parking lot. The reduction of six (6) on-site parking spaces is for a temporary basis, and the patio has been reviewed by Public Works to ensure that it will not negatively impact on-site circulation.
2. The project site is located on the southeast corner of Newport Boulevard and 30th Street. Surrounding uses include residential neighborhoods, which are located directly adjacent to the shopping center to the north, south, and west. Lido House Hotel is located approximately 400 feet northwest of the project site. The temporary patio does not negatively affect surrounding uses as it serves an existing restaurant adjacent to a large shopping center.

Finding:

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

Fact in Support of Finding:

1. The subject lot has two (2) direct driveway approaches taken from Newport Boulevard. The temporary outdoor patio is located adjacent to the restaurant and will not impede access to the existing parking lot. There are no traffic issues anticipated.

Finding:

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

Fact in Support of Finding:

1. The subject property has been occupied by a food service use with outdoor dining since 1976. The existing parking lot has historically accommodated the restaurant. The existing parking lot is expected to accommodate the temporary use. There have been no parking-related complaints or issues raised related to the outdoor dining area installed under the previous emergency permit.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is CN (Neighborhood Commercial). The CN designation is intended to provide for a limited range of retail and service uses developed in one (1) or more distinct centers oriented to primarily serve the needs of and maintain compatibility with residential uses in the immediate area. Permitted uses include those permitted in the CN Zoning designation, which includes eating and drinking establishments through obtaining of a use permit. The expanded outdoor dining use is accessory to the existing food service use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is located in the Commercial Neighborhood (CN) Zoning District. The CN designation applies to areas appropriate for a limited range of retail and service uses developed in one (1) or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The expanded outdoor dining use is accessory to the existing food service use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The Limited Term Permit for expanded outdoor dining would complement and be consistent with the other commercial uses permitted within the CN Zoning District in that it

provides amenities that support visitors to the area and provides a social gathering place for those who live and work in the neighborhood, consistent with General Plan Land Use Element Goal LU 2, below. Additional benefits from the proposed amendment include providing opportunities for the continuation of local businesses that generate sales tax and provide opportunities for employment, which is consistent with General Plan Land Use Element Policy LU 2.4 (Economic Development), also copied below:

Goal LU 2 *A living, active, and diverse environment that complements all lifestyles and enhances neighborhoods, without compromising the valued resources that make Newport Beach unique. It contains a diversity of uses that support the needs of residents, sustain and enhance the economy, provide job opportunities, serve visitors that enjoy the City's diverse recreational amenities, and protect its important environmental setting, resources, and quality of life.*

Policy LU 2.4 Economic Development *Accommodate uses that maintain or enhance Newport Beach's fiscal health and account for market demands, while maintaining and improving the quality of life for current and future residents. (Imp 1.1, 24.1)*

4. Council Policy D-9 recognizes the need to balance economic development objectives with protection of the environment and the health and safety of the community. The policy recognizes the need to provide effective and efficient structures for implementing economic programs, utilizing staffing to provide healthy, thriving businesses, and maintain a healthy economy while preserving the unique commercial villages in Newport Beach. The proposed limited term permit would support a local business and economic prosperity while maintaining the unique character of the Balboa Peninsula.
5. The site is not located within a specific plan area.

Coastal Development Permit

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:

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

Facts in Support of Finding:

1. The project site is not located adjacent to a coastal view road or public access way. The site is located approximately 150 feet south from a public beach access location identified by the Coastal Land Use Plan. However, the temporary patio is located on a site with an existing restaurant. The temporary outdoor dining area complies with all applicable Local Coastal Program (LCP) development standards and maintains an area consistent with the existing pattern of development on the Balboa Peninsula. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

2. The Property is located in the coastal zone and the proposed improvements require a coastal development permit in accordance with Newport Beach Municipal Code (NBMC) Section 21.52.035(C)(2) (Projects Exempt from Coastal Development Permit Requirements). The improvements constitute an increase of ten (10) percent or more of the internal floor area of an existing structure or a lesser improvement that has previously been undertaken pursuant to California Public Resources Code Section 30610(a). The expanded outdoor dining area and barrier within the public walkway are minor detached structures. The location of these improvements does not pose a conflict to coastal resources, coastal access, or other adverse environmental effects.
3. Improvements are complementary to the area; the subject restaurant and other restaurants on the Balboa Peninsula have similar outdoor dining improvements.
4. The dining area barrier is installed within the existing walkway. The barrier delineates the area dedicated for outdoor dining use and alcohol service from the public walkway. There are no existing City utilities within the expanded outdoor dining area.
5. Development authorized by this permit is not located in any environmentally sensitive habitat area (ESHA) and public access to the coast will not be blocked. Coastal access is increased by allowing commercial establishments to re-open allowing public to visit coastal areas and provides an added amenity for visitors. The proposed operation does not contain ESHA, wetlands, or sandy beach area;
6. Development authorized is not located in an area in which the California Coastal Commission retains direct permit review authority.

Finding:

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

Fact in Support of Finding:

1. The subject property is not located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone. The property is located approximately 475 feet from a public beach or harbor (approximately 1,000 feet) and is not located near a public viewpoint designated by the Coastal Land Use Plan.

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) and Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-027 and Coastal Development Permit No. CD2021-051 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) Title 21 (Local Coastal Implementation Plan), of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 approval of this Limited Term Permit and Coastal Development Permit shall be effective from January 1, 2022, to December 31, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Sections 20.52.040.J (Extension of Limited Term Permit) and 21.54.060 (Time Limits and Extensions). The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.
3. *The expanded dining area shall not exceed 875 square feet.*
4. *The existing allowed hours of operation of the establishment shall not be extended. The hours of operation of the expanded area as part of this approval shall not extend beyond 9 p.m. on Monday through Thursday, and 10:00 p.m. on Friday through Sunday.*
5. *There shall be no use of amplified sound and/or live entertainment in the expanded dining area.*
6. *The applicant shall install and maintain a physical barrier between any area used and adjacent common pedestrian walkways in accordance with the requirements of the State Department of Alcoholic Beverage Control.*
7. *The temporary patio shall consist of a maximum of eight (8) tables. There shall be no permanent structures that require building permits.*
8. The Applicant shall obtain and maintain authorization from the State Department of Alcoholic Beverage Control (ABC) for all areas where the sale, service or consumption of alcohol is under the control of the applicant. The establishment shall abide by all applicable regulations of the State Department of Alcoholic Beverage Control.
9. The sale of alcohol "to go" to patrons that dine within the expanded outdoor patios shall be prohibited.
10. The establishment shall abide by all applicable Orange County Health Care Agency requirements.

11. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
12. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
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 approval.
15. This Limited Term Permit and Coastal Development Permit 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. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit and Coastal Development Permit.
17. 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 this **Limited Term Permit No. XP2021-027 and Coastal Development Permit No. CD2021-051 (PA2021-205) for Malarky's Irish Pub**. 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

18. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot-wide accessible path to all functional area shall be provided.
 - b. Access to restrooms shall be provided at all times.

- c. Accessible parking stalls shall not be used for seating areas when onsite parking is provided.
 - d. At least one (1) accessible seating area shall be provided.
 - e. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two (2).
19. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

Public Works Department

20. Substantial barriers (automobiles, K-rail, water-filled barrier, or other material acceptable to Public Works) shall be provided between the seating area and drive aisle and adjacent parking spaces. Substantial barriers shall not encroach into the required dimensions of the drive aisle and parking spaces.
21. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles and 15 feet of space around all underground facilities, such as poles and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
22. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
23. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
24. Expanded outdoor dining areas shall adhere to the SCE Clearance Decal examples.

Fire Department

25. Fire lane(s) shall be identified on the plan.
26. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
27. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
28. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
29. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.

30. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.

RESOLUTION NO. ZA2021-089

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-065 TO RAISE AN EXISTING SEAWALL LOCATED AT 2676 BAY SHORE DRIVE (PA2021-250)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Skurman Architects, with respect to property located at 2676 Bayshore Drive, requesting approval of a coastal development permit.
2. The lot at 2676 Bay Shore Drive is legally described as Lot 54 of Tract 907.
3. The applicant proposes to raise an existing concrete seawall to a height of 10.9 feet North American Vertical Datum of 1988 (NAVD 88). The existing seawall has an elevation that varies from 7.90 to 8.28 feet NAVD 88. The applicant proposes to remove existing distressed concrete coping and construct new concrete coping with a concrete stem wall, which is located within the permit jurisdiction of the City.
4. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-B) (6.0 – 9.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on December 16, 2021, online via Zoom. 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 accessory structures. The proposed project consists of the construction of a raised concrete seawall.

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 improvements comply with applicable residential development standards including height of accessory structures in the front setback. The proposed raised seawall is located within the required front setback area abutting the bay, which is 10 feet. The existing concrete seawall has an elevation which varies from 7.9 to 8.28 feet NAVD 88, is proposed to be raised to 10.9 feet NAVD 88 while being adaptable to a future height of 14.4 feet NAVD 88. The proposed seawall meets the current City of Newport Beach standard of 10.9 NAVD 88. All proposed improvements comply with height requirements for accessory structures in the front setback.
2. The neighborhood is predominantly developed with two- and three-story, single-family residences with protective shoreline devices. The proposed raised bulkhead is consistent with the existing neighborhood pattern of development.
3. According to a Coastal Hazards Report and Sea Level Rise Analysis prepared by Geosoils, Inc. dated July 15, 2021, there is an existing seawall which serves the subject property. The seawall has an elevation which varies from 7.9 to 8.28 feet (NAVD 88). The current maximum bay water elevation is 7.7 feet (NAVD 88) and may exceed the 7.90 to 8.28 feet (NAVD 88) top of bulkhead elevation for the seawall during high tide or storm events. The proposed raising of the seawall to 10.9 feet NAVD 88 is to prevent flooding into the property. The project includes reinforcing and raising the existing seawall to 10.9 feet (NAVD 88) with an adaptability elevation of 14.4 feet (NAVD88). This is above the minimum required 10.9 feet (NAVD 88). 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.

4. 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.
5. 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 view road that is West Coast Highway, which is located approximately 1,200 feet from the subject property. The project does not contain any unique features that could degrade the visual quality of the coastal zone.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project raises an existing seawall within the front setback area abutting the bay. 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. Lateral access to the bay is available throughout various entrances from West Coast Highway. The project does not include any features that would obstruct access to the bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-065, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.

3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 2021.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *The existing seawall shall be reinforced and capped to 10.9 feet (NAVD 88) minimum in accordance with the recommendations provided in the report prepared by Geosoils, Inc. on July 15, 2021 and as identified in the approved plans.*
3. *The alterations to the seawall shall allow for a future increase in height without further seaward encroachment.*
4. Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
7. Demolition beyond the approved scope of work requires planning division approval prior to commencement of work. Approval of revisions to project plans are not guaranteed. Any changes in the current scope of work may require the entire structure to be demolished and redeveloped in conformance with the current Zoning Code Development Standards.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January

31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
 10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
 11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. 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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
 14. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
 15. This Coastal Development Permit does not authorize any development seaward of the private property.
 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 issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
20. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
22. This Coastal Development Permit No. CD2021-065 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.
23. 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 2676 Bay Shore Drive Seawall including, but not limited to, Coastal Development Permit No. CD2021-065 (PA2021-250). 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. ZA2021-090

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING MINOR USE PERMIT NO. UP2021-046 TO ALLOW AN EXPANDED TYPE 47 (ON SALE GENERAL) ALCOHOLIC BEVERAGE CONTROL LICENSE AREA AT AN EXISTING FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT AT 453 NEWPORT CENTER DRIVE (PA2021-263)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by James Szabatin representing Joey Restaurant Group, with respect to property located at 453 Newport Center Drive, and legally described as Parcel 1 of Lot Line Adjustment No. 87-3 in the City of Newport Beach, County of Orange, State of California, requesting approval of a minor use permit.
2. The applicant proposes a minor use permit and operator license for Joey Restaurant Group to expand the alcohol service area previously authorized under Use Permit No. UP3654 for Roy's Restaurant. The existing restaurant location includes late hours (after 11:00 p.m.), dancing, live entertainment, and a Type 47 (On Sale General) alcohol license. The proposed remodel and tenant improvements will make shell building improvements and add a new 2,590-square-foot outdoor dining patio to the south portion of the building. Pursuant to Newport Beach Municipal Code (NBMC) Chapter 5.25, the operation, as described, requires the owner/operator to obtain an Operator License (OL2021-002) through the City because the proposed building and tenant improvements to the establishment result in a change in occupancy and the restaurant includes late hours of operation (after 11:00 p.m.). This application will supercede the previous Use Permit No. UP3654.
3. The subject property is designated CR (Regional Commercial) by the General Plan Land Use Element and is located within the PC-56 (North Newport Center Planned Community) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on December 16, 2021, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code

of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.

2. The proposed project involves the expansion of alcoholic service area at a recently expanded restaurant with late hours (after 11:00 p.m.) and an outdoor dining patio. Therefore, both the existing 7,588-square-foot restaurant and new 2,590-square-foot outdoor dining patio expansion qualify for a categorical exemption under Class 1.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales

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

Finding

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

Facts in Support of Finding

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

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The proposed establishment is located within Reporting District 39, wherein the number of crimes is higher than adjacent Reporting Districts and the City. RD 38, 43, and 44 have a lower number of crimes as they are primarily residential with few commercial uses. RD44 (Corona del Mar Village) has slightly higher crime count averages due to its commercial corridor district. Due to the high concentration of commercial land uses in Fashion Island, the crime rate and shoplifting rate is greater than adjacent residential Reporting Districts; however, the Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
- ii. *The numbers of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The Police Department does not consider the rate high because of the concentration of restaurants and commercial uses within Fashion Island and the surrounding North Newport Center. The Newport Beach Police Department has not previously reported any calls for service to the subject property since the proposed use is part of a new development project.

-
- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. The shopping center does not abut sensitive land uses and is separated from other uses by parking lots, roadways, and other commercial uses. Residential uses are permitted in the northern sections of the PC-56 (North Newport Center Planned Community) Zoning District within Blocks 500, 600, 800, and San Joaquin Plaza. The property is located approximately 300 feet southwest of Block 500, the nearest area that allows for residential uses. There are currently no residential units developed in Block 500. The proposed use is not located in close proximity to other residential districts, day care centers, park and recreation facilities, places of religious assembly, and schools.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. Off-sale alcohol sales are located in the vicinity at Whole Foods, at 461 Newport Center Drive, within Fashion Island. Additionally, there are many comparable restaurant establishments within the Fashion Island Shopping Center including True Food Kitchen at 451 Newport Center Drive and Fleming's Steakhouse at 455 Newport Center Drive in the same pad building. The Type 47 (On Sale, General) alcohol license is the same as those obtained by said establishments and there is no evidence suggesting these uses have been detrimental to the neighborhood. An adequate security plan per the Police Department is in place for the Fashion Island Shopping Center and conditions of approval are proposed to adequately manage the late hour component of the proposed restaurant.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions*
1. The project has been reviewed and conditioned to ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for residents and businesses is preserved. The service of alcohol is intended for the convenience of customers dining at the restaurant. Operational conditions of approval relative to the sale of alcoholic beverages will help ensure compatibility with the surrounding uses and minimize alcohol related impacts.
 2. The restaurant use will be located within a shopping center designated to include such development. The Regional Commercial (CR) designation of the General Plan allows eating and drinking establishments. The service and consumption of alcohol at the restaurant, pursuant to a Type 47 Alcoholic Beverage Control license under the conditions imposed by this Minor Use Permit that it will be operated and maintained, complies with the provisions of the Zoning Code and the North Newport Center Planned Community District Regulations.

3. The restaurant pad is part of a highly-traveled commercial area that is occupied by a mixture of office and retail uses. It is anticipated that the establishment will serve visitors and employees of the nearby businesses who stop and eat within the North Newport Center area. Adding alcohol service and a new bar area in the new outdoor dining patio will complement the food service and provide for the convenience of customers.
4. The proposed restaurant is located within an existing restaurant pad building and is designed as a restaurant that includes on-site service and consumption of alcoholic beverages.

Minor Use Permit

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

Finding

B. The use is consistent with the General Plan and any applicable specific plan:

Fact in Support of Finding

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed restaurant with alcoholic beverage sales and an outdoor dining patio is a use that serves local and regional residents and is consistent with land uses in the CR land use designation.

Finding

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

Facts in Support of Finding

1. The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District. Fashion Island is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The restaurant with alcoholic beverage sales and an outdoor dining patio is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.
2. Eating and Drinking Establishments are permitted uses within the Fashion Island Sub-Area of the North Newport Center Planned Community Zoning District. Pursuant to the

Planned Community Text, the expansion of on-premise sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit amendment.

3. The proposed outdoor dining area and the restaurant area are within the limits of the cumulative floor area allocated for Fashion Island. In this case, the addition of the 2,590-square-foot patio to the existing 1,470,097-square-foot development is well below the 1,523,416-square-foot floor area limit set for Fashion Island.
4. The PC-56 (North Newport Center Planned Community) parking rate is 3 per 1,000 square feet for regional commercial (Fashion Island). The existing gross floor area of 1,470,097 square feet for Fashion Island requires 4,411 parking spaces where 6,106 parking spaces are provided in Fashion Island per Plan Check No. 2163-2020.
5. Prior to the final of building permits, a lot line adjustment will be recorded to include the new building footprint created by the outdoor dining patio within the pad parcel currently established by Lot Line Adjustment No. 87-3.

Finding

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

Facts in Support of Finding

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. While the proposed establishment provides a component of late-night dining services similar to a lounge, the use is compatible with surrounding permitted commercial uses in the vicinity and there currently are no sensitive land uses located nearby.
2. The proposed hours of operation are from 11:00 a.m. to 1:00 a.m., daily. While the proposed hours of operation for Joey's Restaurant Group are later than the hours for other restaurants within Fashion Island, an adequate security plan is in place for the Fashion Island Shopping Center and conditions of approval are proposed to adequately manage the late hour component of the proposed restaurant.
3. Due to the late hours of operation (after 11:00 p.m.), approval of Operator's License No. OL2021-002 by the Newport Beach Police Department will be required. A copy of the Fashion Island Security Plan will be provided as part of the operator license process for the proposed business. An operator license required pursuant to NBMC Chapter 5.25 may be subject to additional and/or more restrictive conditions to regulate and control potential nuisances associated with the operation of the restaurant. The operator license will help ensure compatibility of the proposed business with the surrounding uses in the vicinity.

4. The on-site consumption of alcoholic beverages will be incidental to the restaurant use. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period, per the conditions of approval. Alcoholic beverage service will be under the supervision of LEAD-trained employees.

Finding

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

Facts in Support of Finding

1. The Fashion Island shopping center provides adequate parking and circulation within the surface parking lots and parking structures on site.
2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided. Fire sprinklers will be required within the new outdoor dining patio and retractable awning area. Utilities are provided with all applicable requirements.
3. The site has historically been developed and used as a restaurant location with alcohol service and the new outdoor dining patio is intended for the same use. The tenant space is designed and developed for an eating and drinking establishment.
4. Improvements to the building and new outdoor dining patio will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

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

Facts in Support of Finding

1. The project has been reviewed and includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment with alcohol service will serve visitors and the surrounding business community. The proposed establishment will

provide alcohol service as a public convenience to visitors and workers within the surrounding area.

3. Fashion Island management has historically provided efficient on-site security and cooperates with the Newport Beach Police Department. The provision of an operator license will further enable the Police Department to regulate the operation of the proposed business.
4. The location will utilize an existing grease interceptor, obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

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. UP2021-046, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Use Permit No. UP3654, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 16TH DAY OF DECEMBER, 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 Minor Use Permit.
4. *This approval is for alcoholic beverage service only. The off-sale of alcoholic beverages for off-site consumption is prohibited.*
5. *This Use Permit for an alcoholic beverage control outlet granted in accordance with the terms of this chapter (Chapter 20.89 of the Newport Beach Municipal Code) shall expire within 12 months from the date of approval unless a license has been issued or transferred by the California State Department of Alcoholic Beverage Control prior to the expiration date.*
6. *The alcoholic beverage outlet operator shall take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the alcoholic beverage outlet and adjacent properties during business hours, if directly related to the patrons of the subject alcoholic beverage outlet.*
7. *Alcoholic beverage sales from drive-up or walk-up service windows shall be prohibited.*
8. *The exterior of the alcoholic beverage outlet 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.*
9. *Prior to issuance of final building permits, a lot line adjustment shall be recorded to incorporate the expanded dining area into the pad building Parcel 1 of Lot Line Adjustment No. 87-3 in accordance with Section 19.04.035 of the Subdivision Code.*
10. *The hours of operation shall be limited from 9:00 a.m. to 1:00 a.m., daily.*
11. *The expanded outdoor dining area shall not exceed 2,590 square feet in area.*

12. *The installation of roof coverings shall not have the effect of creating a permanent enclosure. The use of any other type of overhead covering shall be subject to review and approval by the Community Development Director and may require an amendment to this minor use permit.*
13. *The operator as well as any future operators of the restaurant shall obtain an Operator License pursuant to Chapter 5.25 of the Municipal Code to ensure the business is operated in a safe manner. The Operator License may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the restaurant. The applicant may choose to limit their closing hour to 11:00 p.m., daily, in-lieu of obtaining an Operator License. In this case, the applicant shall provide written notification to the City to exercise this option.*
14. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets, and shall be sound attenuated in accordance with Chapter 10.26 (Community Noise Control) of the Municipal Code.
15. *All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.*
16. *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 drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.*
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. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. 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.

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. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
23. No outside paging system shall be utilized in conjunction with this establishment.
24. All trash areas shall be screened from adjoining properties and streets.
25. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes and drain to the sewer system.
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. 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.

30. Dancing and live entertainment shall be permitted in accordance with a Café Dance Permit and Live Entertainment Permit issued by the Revenue Manager in accordance with Title 5 of the Newport Beach Municipal Code.
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. 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.
33. 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.
34. This Minor 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.
35. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Minor Use Permit.
36. 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.
37. 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.
38. 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.

39. 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 Joey Restaurant Group including, but not limited to, Minor Use Permit No. UP2021-046 (PA2021-263). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department

40. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the use permit.
41. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
42. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
43. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
44. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
45. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.

46. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
47. Food service shall be made available to patrons until closing.
48. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
49. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge, including minimum drink orders or the sale of drinks is prohibited.
50. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
51. Strict adherence to maximum occupancy limits is required.
52. The applicant shall maintain a security recording system with a 30-day retention and make those recordings available to police upon request.
53. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
54. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. 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.
55. An Operator License required pursuant to Chapter 5.25 of the Municipal Code, may be subject to additional and/or more restrictive conditions such as a security plan to regulate and control potential late-hour nuisances associated with the operation of the establishment.

Fire Department

56. Automatic fire sprinklers shall be required for the new outdoor dining patio and retractable patio cover. The sprinkler system shall be monitored by a UL certified alarm service company.

Building Division

57. 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.
58. The restaurant shall provide the number of plumbing fixtures to satisfy the requirements of Chapter 4 of the California Building Code, 2010.
59. Prior to issuance of building permits, an exit analysis shall be provided for the outdoor dining patio.
60. A washout area for refuse containers shall be provided to allow direct drainage into the sewer system and not into the Bay or storm drains, unless otherwise approved by the Building Department and Public Works Department.
61. Grease interceptors shall be installed on all fixtures in the restaurant where grease may be introduced into the drainage systems, unless otherwise approved by the Building Department and the Public Works Department. Grease interceptors shall be located to be easily accessible for routine cleaning and inspection.
62. Kitchen exhaust fans shall be designed to control smoke and odor to the satisfaction of the Building Department.
63. Public sanitation facilities shall be available to the general public (patrons) during regular business hours of the operation, unless otherwise approved by the Building Division.
64. The site plan shall clearly identify the parking, path of travel, entrance, restrooms, fixed seating, and bar seating to comply with accessibility requirements.
65. 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 feet of freeboard.

Pave or apply water four times daily to all unpaved parking or staging areas.

Sweep or wash any site access points within two 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 carpooling 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 6-inch surface layer, subject to review/discretion of the geotechnical engineer.

Public Works Department

66. County Sanitation District fees shall be paid prior to the issuance of any building permits.
67. *A lot line adjustment shall be submitted and approved with the Public Works Department prior to recordation and building permit final.*
68. *The on-site parking, vehicular circulation, and pedestrian circulation systems shall be subject to further review by the City Traffic Engineer.*



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

ZONING ADMINISTRATOR ACTION LETTER

Subject: **Gondola Adventures Extension of Time (PA2020-273)**
▪ Coastal Development Permit No. CD2020-136
▪ Limited Term Permit No. XP2020-006

Site Location **200 Bayside Drive**

Applicant **Gondola Adventures, Inc.**

Legal Description **A Portion of Parcel 3 of Parcel Map No. 93-111**

On **December 17, 2021**, the Zoning Administrator approved a 12-month extension of time of a coastal development permit and limited term permit for gondola boat tours at 200 Bayside Drive. The limited term permit and coastal development permit were originally approved on December 10, 2020 by the Zoning Administrator (Attachment No. ZA 2) and are set to expire on January 11, 2022. The extension will allow the limited term permit and coastal development permit to concurrently expire on January 11, 2023. There have been no changes to the conditions or circumstances of the project from the time of the original approval. The gondola boat tours have been operating without any issues or complaints from the public.

Jaime Murillo
Zoning Administrator
MS/dl

Attachments: ZA 1 Vicinity Map
ZA 2 Resolution ZA2020-080
ZA 3 Request for Time Extension

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Extension of Time
Coastal Development Permit No. CD2020-136
Limited Term Permit No. XP2020-006
PA2020-273

200 Bayside Drive

Attachment No. ZA 2

Resolution ZA2020-080

RESOLUTION NO. ZA2020-080

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

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Gondola Adventures, Inc., with respect to property located at 200 Bayside Drive, and legally described as a portion of Parcel 3 of Parcel Map No. 93-111 requesting approval of a Coastal Development Permit and Limited Term Permit (More than 90 days).
2. The applicant proposes to use an existing temporary modular office for gondola boat tours. The gondola boats will be docked within existing marina slips accessible from the property. The office will be used for general office operations, storage, and setup area for gondola tours. The office will include an attached restroom to serve employees and customers.
3. The subject property is designated Mixed-Use Water 2 (MU-W2) by the General Plan Land Use Element and is located within the Back Bay Landing (PC9) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed Use Water Related (MU-W) and it is located within the Back Bay Landing (PC9) Coastal Zone District.
5. A public hearing was held online on December 10, 2020, observing restrictions due to the Declaration of a State Emergency and Proclamation of Local Emergency related to COVID-19. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

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

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

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

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

Finding:

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

Facts in Support of Finding:

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

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

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

4. As conditioned, all outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. Landscaping is not proposed as a part of this project.

Finding:

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

Facts in Support of Finding:

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

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves CD2020-136 and XP2020-006, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

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



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.91.050 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 shall not be effective until after January 11, 2021.
6. The applicant shall obtain permits from the Fire Department for a fire suppression system within 60 days of the approval of the coastal development permit and limited term permit.
7. This Coastal Development Permit and Limited Term Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Coastal Development Permit and Limited Term Permit or the processing of a new Coastal Development Permit and Limited Term Permit.
9. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit and Limited Term Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development

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

11. This Limited Term Permit shall expire twelve (12) months from the issued date of building occupancy, unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.
12. Upon recordation of a future pedestrian easement in compliance with PC-9, the temporary trailer shall be removed.
13. The hours of operation for the modular office and the gondola boat tours shall be limited to 10:00 a.m. through 10:00 p.m., daily, except that the gondola boat tours shall be permitted to operate to later hours with the prior approval of the Planning Division for up to six (6) special occasions per calendar year. Examples of special occasions include New Years, Valentine's Day, Mother's Day, etc.
14. A Marine Activities Permit (MAP) shall be obtained prior to the operation of boat tours.
15. In the event that the future Back Bay Landing mixed-use development is implemented prior to the expiration of this Limited Term Permit, the modular building shall be removed.
16. Prior to the issuance of a building permit, approval shall be obtained from the Building Division for the use of a pump out and holding station instead of connecting to a sewer system.
17. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
18. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties, and not flood light toward the shoreline, coastal waters and coastal bluffs and to not produce glare onto adjacent properties, roadways, the shoreline, coastal waters or coastal bluffs. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
19. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the

specified time periods unless the ambient noise level is higher:

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

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

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29. The applicant shall ensure that the pump-out restroom is regularly serviced and maintained to control odors.
 30. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
 31. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 32. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
 33. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Gondola Adventures including, but not limited to, Coastal Development Permit No. CD2020-136 and Limited Term Permit No. XP2020-006 (PA2020-273). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Attachment No. ZA 3

Request for Time Extension



GONDOLA ADVENTURES® , INC.

200 Bayside Drive
Newport Beach, CA 92660
Tel. 949-646-2067 • 855-GONDOLA
Fax 949-642-4760
www.gondola.com

October 27, 2021

Attn: City of Newport Beach
Planning Division

Gondola Adventures, Inc. is seeking an extension of time on the Limited Term Permit for our modular office at 200 Bayside Drive, Newport Beach, 92660. The gondolas operate at this location with, to our knowledge, no issues or concerns from nearby residents or businesses.

We originally applied for the Limited Term Permit after our existing office and dock location (3101 West Coast Highway) closed for complete building and dock refurbishment. The 200 Bayside Drive modular office provides working space for us to operate gondola cruises from the adjacent marina at 300 East Coast Highway.

Prior to his refurbishment project, the owner of 3101 W Coast Hwy indicated that he would welcome us to return once the building and docks were complete. However, he has since decided that he does not wish to have any commercial operations in his new building. We have been and will continue to actively seek an alternate dock and office option; thus far, we have been largely unsuccessful in finding any other building owner willing to lease docks to a commercial operation. We will spend the next year continuing to seek alternate docking so we aren't forced to leave Newport Beach.

Please contact me with any questions.

Sincerely,

A handwritten signature in cursive script, appearing to read "EM Mohr".

Elisa M. Mohr
Vice President



COMMUNITY DEVELOPMENT DEPARTMENT

PLANNING DIVISION

100 Civic Center Drive, P.O. Box 1768, Newport Beach, CA 92658-8915

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COMMUNITY DEVELOPMENT DIRECTOR **ACTION LETTER**

APPLICATION:	Residences at 4400 Von Karman – Free Standing Parking Structure Revision (PA2021-156) <ul style="list-style-type: none">• Staff Approval No. SA2021-006
APPLICANT:	TPG (KCN) Acquisition, LLC
LOCATION:	4400 Von Karman Avenue
LEGAL DESCRIPTION	Parcel 2 of Parcel Map No. 91-155, Book 266, Pages 16 through 22 of Parcel Maps, together with Parcel 1 of Parcel Map No. 82-713 as shown on a map thereof, filed in Book 181, Pages 13 through 19 of Parcel Maps

On **December 16, 2021**, the Community Development Director approved Staff Approval No. SA2021-006, based on the findings and subject to the following conditions.

PROJECT SUMMARY

A request for minor modifications to the previously approved 284-space, five-level, free-standing parking garage as a part of the Residences at 4400 Von Karman project located at 4400 Von Karman Avenue, in the Koll Center Newport Business Park. The proposed request includes minor adjustments to the location of the parking structure, the overall length of the parking structure, the vehicular circulation pattern inside and around the parking structure, and the number of parking spaces provided. Additionally, the height of the modified design includes a reduction in the number of levels from five to four.

ZONING DISTRICT/GENERAL PLAN

- **Zone:** PC 15 Koll Center (Professional and Business Office Site B)
- **General Plan:** Mixed Use Horizontal 2 (MU-H2)

I. BACKGROUND

On January 12, 2021, the City Council approved the land use entitlements for Residences at 4400 Von Karman project (PA2020-061). The project included 312 apartment units atop an 825-space parking structure, an approximately one-acre public park, and a 284-space free-standing parking structure. The project's summary and approval, including City Council Resolution Nos. 2021-2 and 2021-3 and Ordinance Nos. 2021-1 and 2021-2 are provided [here](#).

II. PROPOSED CHANGES

The applicant, TPG (KCN) Acquisition, LLC (The Picerne Group), proposes minor revisions to the previously approved free-standing parking structure, which are summarized as follows:

- Shift the free-standing parking structure to the southeast corner of the site, such that the parking structure will be located approximately 13 feet from the adjacent property line to the north, 10 feet from the adjacent property line to the south, 17 feet from the adjacent property line to the east, and 15 feet further away from the 4340 Von Karman property.
- Increase the length of the free-standing parking structure from 218 feet to 233 feet (the width remains the same at 128 feet).
- Reduce the number of parking levels, from five to four. The overall building height decreases from 54 feet to approximately 38 feet.
- Increase the number of parking spaces within the parking structure from 284 to 294 spaces.
- Remove the previously proposed one-way fire access lane that runs along east and south sides of the parking structure, and replace with a two-way, 26-foot-wide drive aisle between the subject free-standing parking structure and the existing parking structure located at 5000 Birch Street.
- Remove the secondary-driveway access point at the east end of parking structure, and replace it with an ungated, single-driveway access point at the west end.

Please see Attachment No. CD 2 for the applicant's project description and Attachment No. CD 4 for the project plans.

III. FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the Newport Beach Municipal Code (NBMC), 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 site development review application. In this case, the Community Development Director has determined that the proposed minor changes are in substantial conformance with the approved above-mentioned entitlements.

Finding:

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

Facts in Support of Finding:

1. The proposed minor revisions to the previously-approved parking structure are consistent with the applicable provisions of the Newport Beach Municipal Code, the Koll Center Newport Planned Community (PC15) development standards, and in substantial conformance to the original the project approval for the following reasons:
 - a. The shifting of parking structure towards the southwest corner of the site is nominal and within the same contemplated location.
 - b. The building height will be reduced to 38 feet, a 16-foot reduction in height, which is substantially lower compared to the approved 54-foot building height limit and below the maximum building height of twelve stories allowed by PC 15.
 - c. The building setbacks will remain 10 feet or greater, which complies with the 10-foot setback minimum as required by PC15.
 - d. The increase in number of parking spaces within the parking structure from 284 to 294 will provide additional parking spaces for nearby office users and the total spaces provided with the parking provided with the proposed residential component of the project will meet applicable commercial and residential parking requirements of PC-15.
 - e. The provision of a two-way, 26-foot wide drive aisle between the free-standing parking structure and the existing parking structure located at 5000 Birch Street will improve the overall vehicular circulation and access to and from the parking structure. The proposed changes have been reviewed and approved by the City Traffic Engineer and City Fire Marshal.
 - f. The changes to the location and building footprint will provide better opportunities for site drainage and utility connections. The proposed changes have been reviewed and approved by the Public Works and Utilities Departments.

Finding:

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

Facts in Support of Finding:

1. The development of the Residences at 4400 Von Karman project and free-standing parking structure were analyzed and subsequently approved with Addendum No. ER2020-003 (PA2020-061) to the 2006 General Plan Update Program Environmental Impact Report and the 2008-2014 City of Newport Beach Housing Element Update Initial Study/Negative Declaration. The Addendum confirmed and provided substantial evidence that the potential impacts associated with the development of residential project including the free-standing parking structure would either be the same or less than those described in the previous environmental documents.
2. The proposed modifications do not change the use or intensity of the approved residential project and free-standing parking structure. The proposed change of location is minor in nature as it is still located in the same contemplated area of the overall project. The modification would yield a nominal increase in the number spaces as result of a slight increase in the building length and efficient parking layout. The height of the free-standing parking structure would decrease by one level or 16 feet, resulting a reduction in building bulk. Together, none of the minor revisions to the parking structure involve features that were the bases for this determination, nor change the conclusion in Addendum No. ER2020-003.

Finding:

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

Fact in Support of Finding:

1. The proposed parking structure revisions do not involve features that were of specific consideration by the City Council when approving the residential project and free-standing parking structure. There are no proposed changes to the approved conditions of approval applicable to the residential portion of the project. The revised parking layout inside the parking structure necessitates the removal of Condition of Approval No. 87 of City Council Resolution No. 2021-3, which required a turnaround space at the west entry. This condition is now is no longer applicable with the revised efficient parking layout.

Finding:

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

Fact in Support of Finding:

1. The minor revisions to the free-standing parking structure do not constitute a substantial change in the operational characteristics of the structure. The length of the structure will be nominally increased, from 218 feet to 233 feet. The number of parking spaces will be increased from 284 to 294. These changes, along with the facts that the structure's building height will decrease and the width will remain the same, do not suggest that the operation of the parking structure will expand or otherwise change.

IV. DETERMINATION

This Staff Approval has been reviewed and a determination has been made that the proposed revisions to the parking structure are minor and in substantial conformance with the original approval.

V. CONDITIONS OF APPROVAL

PLANNING DIVISION

1. The development authorized by this Staff Approval 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. All previous findings and conditions of City Council Resolution No. 2021-3 shall remain in full force and effect as stated in Attachment No. CD 3, except Condition of Approval No. 87 shall be deleted.
3. A copy of City Council Resolution No. 2021-3, including conditions of approval (Exhibit "A") and this Staff Approval Letter shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
4. Staff Approval No. SA2021-006 shall expire unless exercised within twenty-four months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code ("NBMC"), unless an extension is otherwise granted by the City for a period of time provided for in the Development Agreement pursuant to the provisions of California Government Code Section 66452.6(a).
5. Prior to the issuance of building permits, the location of all new fire hydrants shall be reviewed and approved by Community Development Department and Fire Department.
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 Residences at 4400 Von Karman - Free-Standing Parking Structure Revision including, but not limited to, Staff Approval No. SA2021-006 (PA2021-156). 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, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

On behalf of Seimone Jurjis, Community Development Director

Prepared By:



Rosalinh Ung
Principal Planner

JC/ru

Attachments: CD 1 - Vicinity Map
CD 2 - Applicant's Project Description
CD 3 - City Council Resolution No. 2021-3
CD 4 - Project Plans

Attachment No. CD 1

Vicinity Map

VICINITY MAP



Staff Approval No. SA2021-006
PA2021-156

4400 Von Karman Avenue

Attachment No. CD 2
Applicant's Project Description



Director Approval for minor revisions to free-standing parking structure Residences at 4400 Von Karman

Project Description

October 15, 2021

We are requesting Director/Staff approval for minor revisions to the previous 284-space, 5 level free-standing parking structure approved by City Council. Below is a summary of proposed design changes.

Location / Circulation Changes: Parking structure has been shifted to the southwest corner of the site with circulation updated to provide a two way, 26' wide, drive aisle north of the proposed parking structure and eliminating the site circulation path running through the proposed parking structure. One-way fire access lane previously proposed along southern face of garage has been eliminated and combined with the aforementioned 26' drive aisle. Parking structure is now located 13.5 from the adjacent property line to the north, 10' from the adjacent property line to the south, and 17' from the adjacent property line to the east.

Drainage Changes: Drainage tributaries have remained the same with all runoff being conveyed to the existing public storm drain. Drainage along the northern run-on tributary will be intercepted and discharged to the existing public storm drain per original drainage patterns. All drainage from the parking garage improvement areas will continue to discharge south to the proposed underground detention and modular wetlands bio-filtration system per previously entitled design package. Revised Storm Drain point of connection to connect the drainage improvements to the storm drain system at the proposed access manhole, located between the new parking structure and the southern parcel. Hydraulic analysis have been provide to confirm viability of drainage scenario.

Utility Changes:

- **Sewer:** Sewer point of connection has been added along northern face of proposed parking structure to tie into existing on-site sewer system.
- **Fire Water:** Two new hydrants are proposed at the northern side of the proposed parking structure to connect to the proposed Public IRWD main located to the west of the parking garage. An existing private hydrant will be utilized at the southwest corner of the proposed parking structure in addition to the two proposed hydrants noted above to provide the necessary coverage for required hose pull distances. Hydrant tests will be conducted at both locations to verify capacity and flow prior to design and permit approvals.
- **Domestic Water:** A domestic water line from the proposed IRWD water main located to the west of the parking garage (near Von Karman) to the proposed parking garage.
- **Irrigation System:** The existing irrigation system will be re-configured to service the revised landscaping planters and trees. No new irrigation services or meters are proposed for the free-standing garage.

Parking Structure Changes:

- Increased the length of the parking structure from 218'-3" to 232'-6" - width remains the same at 128'.
- Reduced the height of the parking structure from 5 levels of parking to 4 levels of parking. The overall building height decreases from 54 feet to 38 feet approximately, not including the elevator shafts.
- Increased the number of parking spaces from 284 to 294
- Eliminated secondary drive access point at east end and replaced it with an ungated, single-drive access point at the west end.
- Stairwells now located in northeast and southwest corners.
- The Parking structure will now be provided with a fire sprinkler system.

Attachment No. CD 3

City Council Resolution No. 2021-3

RESOLUTION NO. 2021-3

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MAJOR SITE DEVELOPMENT REVIEW NO. SD2020-006, LOT LINE ADJUSTMENT NO. LA2020-002, AFFORDABLE HOUSING IMPLEMENTATION PLAN NO. AH2020-003, AND TRAFFIC STUDY NO. TS2020-001 FOR THE RESIDENCES AT 4400 VON KARMAN PROJECT LOCATED AT 4400 VON KARMAN AVENUE (PA2020-061)

WHEREAS, Section 200 of the City of Newport Beach ("City") Charter vests the City Council with the authority to make and enforce all laws, rules and regulations with respect to municipal affairs subject only to the restrictions and limitations contained in the Charter and the State Constitution, and the power to exercise, or act pursuant to any and all rights, powers, and privileges, or procedures granted or prescribed by any law of the State of California;

WHEREAS, an application was filed by TPG (KCN) Acquisition, LLC., ("Applicant") with respect to property located at 4400 Von Karman Avenue, generally bounded by Birch Street and Von Karman Avenue, legally described in Exhibit "A", which is attached hereto and incorporated herein by reference ("Property");

WHEREAS, the Applicant is requesting approvals for the development of 312 apartment units atop an 825-space parking structure, a separate 284-space free-standing parking structure, an approximately one-acre public park, and reconfiguration of existing surface parking lots serving existing office buildings ("Project") which require the following approvals from the City:

- Planned Community Development Plan Amendment (PD2020-001) ("PCDP Amendment") - An amendment to Planned Community Development Plan #15 (Koll Center Newport Planned Community) for the creation of a residential overlay zone and park overlay zone to allow for residential use and a public park within the Koll Center Newport Professional and Business Office Site B ("Office Site B");
- Major Site Development Review (SD2020-006) ("SD") - A site development review in accordance with the amended Koll Center Newport Planned Community and Section 20.52.080 (Site Development Reviews) of the Newport Beach Municipal Code ("NBMC") for the construction of the Project;

- Traffic Study (TS2020-001) (“TS”), which is attached hereto as Exhibit “C” and incorporated herein by reference - A traffic study pursuant to Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC, which is required for projects that generate in excess of 300 new average daily trips;
- Lot Line Adjustment (LA2020-002) (“LA”) - To adjust the lot lines of two (2) underlying parcels that comprise the Project;
- Affordable Housing Implementation Plan (AH2020-003) (“AHIP”), which is attached hereto as Exhibit “D” and incorporated herein by reference - A program specifying how the Project meets the City’s affordable housing requirements, in exchange for a request of 20 percent increase in density and meets the criteria for a development concession related to the mix of affordable unit types pursuant to Chapter 20.32 (Density Bonus) and Government Code Section 65915 *et seq.*;
- Development Agreement (DA2020-002) (“DA”) - An agreement between the Applicant and the City, which would provide vested rights to develop the Project, while also providing negotiated public benefits; and
- Addendum No. ER2020-003 to the 2006 General Plan Update Program Environmental Impact Reports and the 2008-2014 City of Newport Beach Housing Element Update Initial Study/Negative Declaration (“Addendum”) - Pursuant to the California Environmental Quality Act (“CEQA”), the Addendum will address reasonably foreseeable environmental impacts resulting from the Project;

WHEREAS, the Property is designated MU-H2 (Mixed-Use Horizontal 2) by the City of Newport Beach General Plan (“General Plan”) Land Use Element and located within the Airport Business Area, and the Airport Business Area Integrated Conceptual Development Plan (“ICDP”) which allocates a maximum of 260 residential units to be developed on the Property;

WHEREAS, the Property is currently located within the PC-15 (Koll Center Newport Planned Community Office Site B) Zoning District;

WHEREAS, the Project is not located in the coastal zone; therefore, amending the Local Coastal Program or a coastal development permit is not required;

WHEREAS, a telephonic public hearing was held by the Planning Commission on November 5, 2020, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California 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 public hearing was given in accordance with Government Code Section 54950 *et seq.* ("Ralph M. Brown Act"), and Chapter 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the Planning Commission at this public hearing;

WHEREAS, at the hearing, the Planning Commission adopted Resolution No. PC2020-040 by a unanimous vote (4 ayes, 0 nays) recommending approval of the Project, and the land use entitlements referenced above, to the City Council;

WHEREAS, due to the proposed amendment to the Property's zoning regulations, California Public Utilities Code Section 21676(b) requires the City to refer the Project to the Orange County Airport Land Use Commission ("ALUC") for a determination of the Project's consistency with the Airport Environs Land Use Plan ("AELUP") for John Wayne Airport;

WHEREAS, on November 19, 2020, the ALUC found the Project to be consistent with the AELUP for John Wayne Airport;

WHEREAS, telephonic public meetings were held by the Parks, Beaches and Recreation ("PB&R") Commission on December 1, 2020 and January 25, 2021, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California, 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 public hearings were given in accordance with the Ralph M. Brown Act and by providing written notice to property owners within a 300 foot radius of the Project;

WHEREAS, the PB&R Commission determined that the proposed amenities to be provided within the proposed public park for the Project are practical, useable and feasible for the general public, and provided additional recommendations to the City Council;

WHEREAS, at the January 12, 2021 City Council meeting, the City Council continued the public hearing to February 9, 2021. A notice of time, place and purpose of the public hearing was given in accordance with the Ralph M. Brown Act; and

WHEREAS, the continued public hearing was held telephonically by the City Council on January 26, 2021, in the City Council Chambers located at 100 Civic Center Drive, Newport Beach, California, 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 public hearing was given in accordance with Public Utilities Code Section 21676(b), the Ralph M. Brown Act, and Chapters 15.40 (Traffic Phasing Ordinance), 15.45 (Development Agreements), 19.76 (Lot Line Adjustments), 20.56 (Planned Community District Procedures), and 20.62 (Public Hearings) of the NBMC. Evidence, both written and oral, was presented to, and considered by, the City Council at this public hearing.

NOW THEREFORE, the City Council of the City of Newport Beach resolves as follows:

Section 1: The City Council has considered the recommendation of the Planning Commission and the Parks, Beaches and Recreation Commission and determined that modifications to the Project made by the City Council, if any, are not major changes that require referral back to either commission for consideration and recommendation.

Section 2: The City Council hereby approves Major Site Development Review No. SD2020-006, Lot Line Adjustment No. LA2020-002, Affordable Housing Implementation Plan No. AH2020-003, and Traffic Study No. TS2020-001, subject to the conditions of approval set forth in Exhibit "B", which is attached hereto and incorporated herein by reference.

Section 3: In accordance with Section 20.52.080(F) (Site Development Reviews – Findings and Decisions) of the NBMC, the findings and facts in support of Major Site Development Review No. SD2020-006 are set forth as follows:

Finding of Consistency with Section 20.52.080(F)(1)

The proposed development is allowed within the subject zoning district.

Facts in Support of Finding of Consistency with Section 20.52.080(F)(1)

The Property is located within Koll Center Newport Professional and Business Office Site B which permits professional and business offices, hotels and motels, retail, restaurants and entertainment, a courthouse, private clubs, auto detailing and service stations. Currently, Office Site B only allows professional and business offices, restaurants, and support commercial uses. The Project provides the adoption of Residential Overlay Zone with provisions for residential development consistent with the MU-H2 (Mixed-Use Horizontal 2) land use designation and the ICDP. With approval of the amendment to PC-15, the Project would be allowed within the Residential Overlay Zone of PC-15.

With the adoption of the PCDD Amendment, the Project, which meets the development requirements, will be permitted by right.

Finding of Consistency with Section 20.52.080(F)(2)

The proposed development complies with the criteria identified in Section 20.52.080(C)(2)(c)(i) which requires compliance with this section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure.

Facts in Support of Finding of Compliance with the General Plan

1. The Property is located in the Airport Business Area under the General Plan and has a City of Newport Beach General Plan Land Use Element designation of MU-H2 (Mixed-Use Horizontal 2), which provides for a horizontal intermixing of uses that may include regional commercial office, multifamily residential, vertical mixed-use buildings, industrial, hotel rooms, and ancillary neighborhood commercial uses. The MU-H2 (Mixed-Use Horizontal 2) designation applies to a majority of properties in the Airport Business Area outside the high noise levels from John Wayne Airport. The MU-H2 (Mixed-Use Horizontal 2) designation allows a maximum of 2,200 residential units as replacement of existing office, retail, and/or industrial uses at a maximum density of 50 units per net acre. Any eligible density bonus allowed by Government Code Section 65915 (Density Bonus Law) and Chapter 20.32 (Density Bonus) of the NBMC, are not included in the 2,200 allowance or the 50 dwelling units per acre standard.

Of the 2,200 residential units, a total of 550 of these units are identified as additive units meaning they are not replacement units that would replace existing development. These 550 units may be constructed as infill on existing surface parking lots or areas not used as occupiable buildings on properties within the Conceptual Development Plan Area ("CDPA"), located east of MacArthur Boulevard, as depicted on Figure LU22 Airport Area of the General Plan Land Use Element.

Prior to any residential development within the Airport Business Area, General Plan Land Use Policy LU 6.15.11 requires the preparation of an ICDP. In September of 2010, the City approved the Koll-Conexant ICDP to provide a framework for the redevelopment of the 25-acre Uptown Newport site (formally known as Conexant), and for the redevelopment of a 12.7-acre portion of the Koll Center Newport office park between Birch Street and Von Karman Avenue with new residential development and open space, carefully integrated within the existing office buildings and parking structures.

The ICDP allocates 1,504 new residential units: 1,244 of which have been approved and are being developed on the Uptown Newport property and the remaining 260 on the Koll Center Newport office park. All 260 of the new residential units on this Property would be “additive” units since no existing office uses would be removed. Together, the two (2) properties would use all of the 550 additive units prescribed for the ICDP area by the General Plan.

The General Plan contains a number of policies that provide for the orderly development of the MU-H2 (Mixed-Use Horizontal 2) properties in the Airport Business Area, from a business park, to a mixed-use district with cohesive residential villages integrated within the existing fabric of office, industrial, retail, and airport-related businesses. Residential opportunities are to be developed as clusters of residential villages centering on neighborhood parks and interconnected by pedestrian walkways. These would contain a mix of housing types and buildings that integrate with ground level retail and residential uses at a sufficient scale to achieve a complete neighborhood.

2. The Project is consistent with the following General Plan policies that establish fundamental criteria for the formation and implementation of new residential villages in the Airport Business Area in general, and in the CDPA (additional policy analysis is included in Addendum No. ER2020-003).

Finding of Consistency with General Plan Policy LU 2.3

Land Use Element Policy LU 2.3 - Range of Residential Choices: Provide opportunities for the development of residential units that respond to community and regional needs in terms of density, size, location, and cost. Implement goals, policies, programs, and objectives identified within the City's Housing Element.

Facts in Support of Finding of Consistency with General Plan Policy LU 2.3

The PCDP Amendment establishes a Residential Overlay Zone to allow for multi-family residential uses, including affordable units that can respond to market needs and diversify the City's housing stock.

Finding of Consistency with General Plan Policy LU 3.8

LU 3.8 Project Entitlement Review with Airport Land Use Commission -. Refer the adoption or amendment of the General Plan, Zoning Code, specific plans, and Planned Community development plans for land within the John Wayne Airport planning area, as established in the JWA Airport Environs Land Use Plan (AELUP), to the Airport Land Use Commission (ALUC) for Orange County for review, as required by Section 21676 of the California Public Utilities Code. In addition, refer all development projects that include buildings with a height greater than 200 feet above ground level to the ALUC for review.

Facts in Support of Finding of Consistency with General Plan Policy LU 3.8

The Project is within the boundaries of the Airport Environs Land Use Plan (“AELUP”). The overseeing agency, the Orange County Airport Land Use Commission (“ALUC”), reviewed the Project on November 19, 2020, and found it consistent with the AELUP, pursuant to California Government Code Section 65302.3 and Public Utilities Code Section 21670 *et seq.* The purpose of the review is to determine the Project’s consistency with the AELUP prior to the City Council taking action on the Project.

The Project is located outside of the 60-dB CNEL noise contour and located within JWA Safety Zone 6. Consistent with the AELUP, the PCDP Amendment requires posting of signs related to noise levels in the outdoor common areas and proposed one-acre public park. The Project is located in JWA Safety Zone 6 and the AELUP allows residential uses in that zone. The PCDP Amendment does not introduce any new noise-sensitive uses that are inconsistent with AELUP Noise Impact Zones or compatibility qualities of the AELUP Safety Zones.

Finding of Consistency with General Plan Policy LU 6.15.5

LU 6.15.5 Residential and Supporting Uses. Accommodate the development of a maximum of 2,200 multi-family residential units, including work force housing, and mixed-use buildings that integrate residential with ground level office or retail uses, along with supporting retail, grocery stores, and parklands. Residential units may be developed only as the replacement of underlying permitted nonresidential uses. When a development phase includes a mix of residential and nonresidential uses or replaces existing industrial uses, the number of peak hour trips generated by cumulative development of the site shall not exceed the number of trips that would result from development of the underlying permitted nonresidential uses. However, a maximum of 550 units may be developed as infill on surface parking lots or areas not used as occupiable buildings on properties within the Conceptual Development Plan Area depicted on Figure LU22 provided that the parking is replaced on site.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.5

The proposed residential units would be “additive” units because no existing development would be removed, other than surface parking lots and common landscape areas within Office Site B. The Project would replace onsite parking through a combination of structure and surface parking. The Project would provide 559 onsite parking spaces for its residential units, and replace 635 parking stalls to serve the existing office buildings in the free-standing parking structure located at the southeast corner of the Property and within the residential parking structure.

Finding of Consistency with General Plan Policy LU 6.15.6

LU 6.15.6. Size of Residential Villages. Allow development of mixed-use residential villages, each containing a minimum of 10 acres and centered on a neighborhood park

and other amenities (as conceptually illustrated in Figure LU23). The first phase of residential development in each village shall encompass at least 5 gross acres of land, exclusive of existing rights-of-way. This acreage may include multiple parcels provided that they are contiguous or face one another across an existing street. At the discretion of the City, this acreage may also include part of a contiguous property in a different land use category, if the City finds that a sufficient portion of the contiguous property is used to provide functionally proximate parking, open space, or other amenity. The "Conceptual Development Plan" area shown on Figure LU22 shall be exempt from the 5-acre minimum, but a conceptual development plan described in Policy LU 6.15.11 shall be required.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.6

The Property is approximately 13 acres that currently consists of common surface parking lots and landscaped areas that serve office uses within Koll Center Newport. The residential development is proposed as a single-phase, together with adjacent commercial parcels and their surface parking and landscaped areas, will create a residential village consistent with ICDP. The Project is designed to be adjacent and proximate to existing office, commercial, and transit uses to facilitate a mixed-use environment where future residents could walk or bike to work, retail locations, and the transit. The Project would include a one-acre public park centrally located between the existing office developments and new residential structure with a pedestrian linkage system to provide a convenient connection throughout the project site and to adjacent Uptown Newport Planned Community.

Finding of Consistency with General Plan Policy LU 6.15.7

LU 6.15.7. Overall Density and Housing Types. Require that residential units be developed at a minimum density of 30 units and maximum of 50 units per net acre averaged over the total area of each residential village. Net acreage shall be exclusive of existing and new rights-of-way, public pedestrian ways, and neighborhood parks. Within these densities, provide for the development of a mix of building types ranging from townhomes to high-rises to accommodate a variety of household types and incomes and to promote a diversity of building masses and scales.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.7

The Project consists of 260 additive units allocated at the same location as identified in the ICDP. The Project has a net developable residential area of 5.9 acres which includes 4.51 acres of the Project site and 1.39 acres of the free-standing parking area. Dividing the 260 base units over the 5.9 acres results in a base density of 44 units per net acre (260 units) which is consistent with a maximum of 50 du/acre allowance. This base density does not include the 20-percent density bonus of 52 units that is allowed by the State Bonus Density law in exchange for the 5-percent or 13 units set aside for affordable housing. Altogether, the Project has an overall density of 53 units per net acre.

The Project is considered a mid-rise podium style, for-rent apartment development. Although the residential development is limited to one particular housing product, the 312 apartment units include a mix of unit types, ranging from studio to two-bedroom units, accommodating a variety of household types and income. Of the 312 residential units, 13 units will be affordable to low-income households and 299 units will be market-rate housing.

Finding of Consistency with General Plan Policy LU 6.15.8

LU 6.15.8. First Phase Development Density. Require a residential density of 45 to 50 units per net acre, averaged over the first phase for each residential village. This shall be applied to 100 percent of properties in the first phase development area whether developed exclusively for residential or integrating service commercial horizontally on the site or vertically within a mixed-use building. On individual sites, housing development may exceed or be below this density to encourage a mix of housing types, provided that the average density for the area encompassed by the first phase is achieved.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.8

The Project is located in the ICDP which is exempt from this specific density requirement, but is subject to the minimum density of 30 dwelling units per net acre and a maximum density of 50 dwelling units per net acre. With a density of approximately 44 dwelling units per net acre, the Project is in compliance with these criteria.

Finding of Consistency with General Plan Policy LU 6.15.9

LU 6.15.9 Subsequent Phase Development Location and Density. Subsequent phases of residential development shall abut the first phase or shall face the first phase across a street. The minimum density of residential development (including residential mixed-use development) shall be 30 units per net acre and shall not exceed the maximum of 50 units per net acre averaged over the development phase.

Facts in support of Finding of Consistency with General Plan Policy LU 6.15.9

The Project would be developed in a single phase and have a density of 44 dwelling units per acre.

Finding of Consistency with General Plan Policy LU 6.15.10

LU 6.15.10 Regulatory Plans. Require the development of a regulatory plan for each residential village, which shall contain a minimum of 10 acres, to coordinate the location of new parks, streets, and pedestrian ways, set forth a strategy to accommodate neighborhood-serving commercial uses, and other amenities, establish pedestrian and vehicular connections with adjoining land uses; and ensure compatibility with office, industrial, and other nonresidential uses.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.10

The Project includes an amendment to PC-15 (Koll Center Planned Community) to include provisions allowing for residential development consistent with the City's General Plan and ICDP. The overall Project development site is approximately 13 acres, which consists of the project site, the existing office developments, and common open spaces and parking facilities, exceeds the minimum 10-acre for each residential village. The Project is adjacent and proximate to office, commercial, transit, and open space within a mixed-use environment. The Project would incorporate pedestrian connections with Uptown Newport and other properties within PC-15. Additional vehicular connections will continue to be provided by the five driveways that currently exist, which include the three driveways off of Birch Street and the two driveways off of Von Karman.

Finding of Consistency with General Plan Policy LU 6.15.11

LU 6.15.11 Conceptual Development Plan. Require the development of one conceptual development plan for the area depicted on Figure LU22, should demonstrate the compatibility and cohesive integration of new housing, parking structures, open spaces, recreational amenities, pedestrian and vehicular linkages, and other improvements with existing nonresidential structures and uses. To the extent existing amenities are proposed to satisfy Neighborhood Park requirements, the plan shall identify how these amenities will meet the recreational needs of residents. Each residential village in the Conceptual Development Plan Area shall also comply with all elements required for regulatory plans defined by Policy 6.15.10.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.11

The Project is consistent with the intent of ICDP. The Project's General Plan Land Use designation is MU-H2 (Mixed-Use Horizontal 2) and consists of 260 additive units, together with 52 density bonus units for a total of 312 residential units to create a mixed-use community adjacent to and surrounded by office, commercial, open space, and transit uses. This mix of land uses would foster the ICDP's vision of a compatible mixed-use community. The residential uses would be linked to adjacent office and commercial uses through pedestrian connections, sidewalks, and open space. The proposed one-acre park is centrally located and accessible to residents and office users. Adequate parking for the proposed residential units and replacement office parking will be provided within

the Property. The parking garage will be screened through landscaping and articulated facades. The Project will include a pedestrian-scale street and pedestrian walkways that foster a village atmosphere. Ground level residential uses will promote active and engaging street fronts through balconies, landscaping, and building features.

Finding of Consistency with General Plan Policy LU 6.15.12

LU 6.15.12. Development Agreements. A Development Agreement shall be required for all projects that include infill residential units. The Development Agreement shall define the improvements and public benefits to be provided by the developer in exchange for the City's commitment for the number, density, and location of the housing units.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.12

The Project includes a development agreement which will be implemented as part of the project approval.

Finding of Consistency with General Plan Policy LU 6.15.13

LU 6.15.13 Neighborhood Parks Standards. To provide a focus and identity for the entire neighborhood and to serve the daily recreational and commercial needs of the community within easy walking distance of homes, require dedication and improvement of at least 8 percent of the gross land area (exclusive of existing rights-of-way) of the first phase development in each neighborhood, or ½ acre, whichever is greater, as a neighborhood park. This requirement may be waived by the City where it can be demonstrated that the development parcels are too small to feasibly accommodate the park or inappropriately located to serve the needs of local residents, and when an in-lieu fee is paid to the City for the acquisition and improvement of other properties as parklands to serve the Airport Area.

In every case, the neighborhood park shall be at least 8 percent of the total Residential Village Area or one acre in area, whichever is greater, and shall have a minimum dimension of 150 feet. Park acreage shall be exclusive of existing or new rights-of-way, development sites, or setback areas. A neighborhood park shall satisfy some or all of the requirements of the Park Dedication Ordinance, as prescribed by the Recreation Element of the General Plan.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.13

The Project includes the dedication of a one-acre public park exclusive of existing and new right-of-way, development sites and setback areas. The park would serve the Project's future residents, existing offices and businesses within the Koll Center office park as a recreation and relaxation area. Park amenities include a fenced dog park, outdoor plaza, active and game lawn areas, community social area with benches, shade structures, a unisex restroom, water station with dog bowl and bottle filler, and pedestrian

trail. Additionally, five (5) 60-minute time limit parking spaces will be provided for park users.

Finding of Consistency with General Plan Policy LU 6.15.14

LU 6.15.14 Location. Require that each neighborhood park is clearly public in character and is accessible to all residents of the neighborhood. Each park shall be surrounded by public streets on at least two sides (preferably with on-street parking to serve the park), and shall be linked to residential uses in its respective neighborhood by streets or pedestrian ways.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.14

The one-acre park will be developed as a neighborhood park, and it would be accessible to the public during daylight hours. The proposed park will be dedicated to the City but improved and maintained by the property owner of the Project. The park is surrounded by Birch Street and Von Karman Avenue and linked to the Project and existing office developments by pedestrian walkways.

Finding of Consistency with General Plan Policy LU 6.15.15

LU 6.15.15. Aircraft Notification. Require that all neighborhood parks be posted with a notification to users regarding proximity to John Wayne Airport and aircraft overflight and noise.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.15

The park will be posted with a notification to users regarding proximity to John Wayne Airport and aircraft overflight and noise.

Finding of Consistency with General Plan Policy LU 6.15.16

LU 6.15.16 On-Site Recreation and Open Space Standards. Require developers of multi-family residential developments on parcels 8 acres or larger to provide on-site recreational amenities. For these developments, 44 square feet of on-site recreational amenities shall be provided for each dwelling unit in addition to the requirements under the City's Park Dedication Ordinance and in accordance with the Parks and Recreation Element of the General Plan. On-site recreational amenities can consist of public urban plazas or squares where there is the capability for recreation and outdoor activity. These recreational amenities may also include swimming pools, exercise facilities, tennis courts, and basketball courts. Where there is insufficient land to provide on-site recreational amenities, the developer shall be required to pay cash in-lieu that would be used to develop or upgrade nearby recreation facilities to offset user demand as defined in the City's Park Dedication Fee Ordinance.

The acreage of on-site open space developed with residential projects may be credited against the parkland dedication requirements where it is accessible to the public during daylight hours, visible from public rights-of-way, and is of sufficient size to accommodate recreational use by the public. However, the credit for the provision of on-site open space shall not exceed 30 percent of the parkland dedication requirements.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.16

The Project exceeds the 13,728 square-foot (44 square feet x312 unit) on-site recreational amenities by providing a total of 19,768 square feet or 63 square feet per dwelling unit. These are outdoor courtyards with swimming pool and spa, and BBQ areas, and a roof deck. In addition to the on-site recreation amenities, the Project also features private balconies in most of the units, along with 7,700 square feet of recreational amenities for residents, including a fitness center, clubroom, dog wash facility and bike shop/storage.

Finding of Consistency with General Plan Policy LU 6.15.17

LU 6.15.17 Street and Pedestrian Grid. Create a pattern of streets and pedestrian ways that breaks up large blocks, improves connections between neighborhoods and community amenities, and is scaled to the predominantly residential character of the neighborhoods.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.17

The Project includes an internal street that will traverse the Property and connect Von Karman to Birch Street approximately halfway through the block. Pedestrian walkways will facilitate connections between the proposed residential development, adjacent office uses and public sidewalks and streets. Additionally, the public park will provide pedestrian access to/from Von Karman and Birch Street.

Finding of Consistency with General Plan Policy LU 6.15.19

LU 6.15.19 Connected Streets. Require dedication and improvement of new streets as shown on Figure LU23. The illustrated alignments are tentative and may change as long as the routes provide the intended connectivity. If traffic conditions allow, connect new and existing streets across Macarthur Boulevard with signalized intersections, crosswalks, and pedestrian refuges in the median.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.19

See finding LU 6.15.17 *Street and Pedestrian Grid* above.

Finding of Consistency with General Plan Policy LU 6.15.20

LU 6.15.20 Pedestrian Improvements. Require the dedication and improvement of new pedestrian ways as conceptually shown on Figure LU23. The alignment is tentative and may change as long as the path provides the intended connectivity. For safety, the full

length of pedestrian ways shall be visible from intersecting streets. To maintain an intimate scale and to shade the path with trees, pedestrian ways should not be sized as fire lanes. Pedestrian ways shall be open to the public at all hours.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.20

See finding LU 6.15.17 Street and Pedestrian Grid above.

Finding of Consistency with General Plan Policy LU 6.15.22

LU 6.15.22 Building Massing. Require that high-rise structures be surrounded with low- and mid-rise structures fronting public streets and pedestrian ways or other means to promote a more pedestrian scale.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.22

The proposed five-story apartment building would be compatible with surrounding structures and would provide a variety of building mass and scale similar to the nearby one to four story office buildings. Walkways would be provided within the Project and would connect to existing sidewalks on Birch Street and Von Karman Avenue. Other pedestrian scale features include landscaped areas surrounding the apartment building and a one-acre public park.

Finding of Consistency with General Plan Policy LU 6.15.23

LU 6.15.23 Sustainability Development Practices. Require that development achieves a high level of environmental sustainability that reduces pollution and consumption of energy, water, and natural resources. This may be accomplished through the mix and density of uses, building location and design, transportation modes, and other techniques. Among the strategies that should be considered are the integration of residential with jobs-generating uses, use of alternative transportation modes, maximized walkability, use of recycled materials, capture and re-use of storm water on-site, water conserving fixtures and landscapes, and architectural elements that reduce heat gain and loss.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.23

The Project must comply with the provisions of the Building and Energy Efficiency Standards set forth in Title 24 of the California Code of Regulations ("CCR"), Parts 6 and 11 and the Green Building Standards Code set forth in Title 24 of the CCR, Part 11. Additionally, the Project would implement water-efficient landscaping, electric vehicle charging stations in the parking structures, water quality best management practices to treat surface runoff from the project site, and low impact development practices.

The Project is also adjacent to office developments in the Airport Business Area and would provide housing near employment opportunities. The Project includes a one-acre public park and pedestrian linkage system that would provide connections throughout the site and to adjacent and surrounding uses, thereby providing an alternative mode of public

transportation for the residents and their visitors. The Project would also provide alternative forms of transportation to residents by locating close to the existing Orange County Transportation Authority ("OCTA") bus routes provided along Von Karman Avenue, Birch Street, Campus Drive, Jamboree Road, and MacArthur Boulevard.

Finding of Consistency with General Plan Policy LU 6.15.24

LU 6.15.24 - Airport Compatibility. Require that all development be constructed in conformance with the height restrictions set forth by Federal Aviation Administration (FAA), Federal Aviation Regulations (FAR) Part 77, and Caltrans Division of Aeronautics, and that residential development be located outside of the 65 dBA CNEL noise contour specified by the 1985 JWA Master Plan.

Facts in Support of Finding of Consistency with General Plan Policy LU 6.15.24

The Project is located outside the 65 dBA CNEL contour as that noise contour is mapped by the 2008 AELUP that accounts for the most recent update to the JWA Master Plan. The Property is entirely outside of the 60 dBA CNEL noise contour. Additionally, the proposed PCDP Amendment limits future construction to 75 feet above ground level. Finally, the Federal Aviation Administration ("FAA") conducted an aeronautical study of the Project pursuant to applicable Federal regulations and has determined no hazard to air navigation for the Project. Therefore, the Project satisfied LU 6.15.24.

Finding of Consistency with Section 20.52.080(C)(2)(c)(ii)

The proposed development is in compliance with the criteria identified in Section 20.52.080(C)(2)(c)(ii) which requires the efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design.

Facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(ii)

1. The Project dictates the location and configuration of residential development, private driveways/streets, pedestrian ways, and locations of park and open space. The Project also identifies pedestrian connectivity between the Koll Center Newport business park and Uptown Newport planned community, vehicular and pedestrian access to Birch Street and Von Karman Avenue.
2. The proposed 5-story residential building would be at 71 feet including architectural elements, rooftop mechanical equipment, elevator shafts, and emergency staircase. The architecture would be high-quality and would incorporate neutral colors with stone/tile, metal, and glass features. The Project's building mass is comparable and compatible to the existing surrounding office developments, where these buildings are ranging from single-story to ten-story, or up to 154 feet in height.

3. The proposed 5-story free-standing parking structure inclusive of roof-top parking, would be approximately 45 feet tall with a 59-foot elevator tower and smaller in size compared to the adjacent 5000 Birch office's parking structure. It would include neutral colors and materials to ensure compatibility with surrounding office developments.
4. The placement of the residential building would allow for views through the Property to the surrounding office buildings. The massing breaks will add visual interest and reduce long obstructive building facades. The placement of the residential building is aligned with the internal street so it would be the least impactful to the surrounding office buildings and provided maximum pedestrian connections between these buildings.
5. The Project includes a variety of enhanced amenities including private balconies for most of the units, pool and garden courtyards, a clubroom, a fitness center, a dog wash room, and a bike storage. The one-acre public park will be improved and maintained by the applicant. Additionally, open spaces and their connecting walkways will be provided throughout the Property for further benefit of office tenants and residents. Lastly, three (3) pedestrian connections will be provided to connect the Project to Phase 2 of the Uptown Newport project.

Finding of Consistency with Section 20.52.080(C)(2)(c)(iii)

The proposed development is in compliance with the criteria identified in Section 20.52.080(C)(2)(c)(iii) which requires compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas.

Facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(iii)

See facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(ii).

Finding of Consistency with Section 20.52.080(C)(2)(c)(iv)

The proposed development is in compliance with the criteria identified in Section 20.52.080(C)(2)(c)(iv) which requires adequate, efficient, and safe pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces.

Facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(iv)

The Project includes 559 onsite parking spaces for its residential units and a total of 635 replacement parking stalls to serve the existing office buildings. Therefore, upon completion of the Project, there would be adequate onsite parking exceeding the minimum required residential standard and replacement office parking.

Finding of Consistency with Section 20.52.080(C)(2)(c)(v)

The proposed development is in compliance with the criteria identified in Section 20.52.080(C)(2)(c)(iv) which requires adequate and efficient landscaping and open space areas and the use of water efficient plant and irrigation materials.

Facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(v)

The Project includes a public-accessible park and passive open space with landscaping surrounding the proposed residential building. The park and open space would feature a pavilion with a signature tree and a multi-purpose lawn. In addition to the public open space areas, the project features private open space, such as balconies and a rooftop deck. The Project would incorporate water-efficient landscaping where feasible and would comply with the provisions of the Building and Energy Efficiency Standards and the Green Building Standards Code.

Finding of Consistency with Section 20.52.080(C)(2)(c)(vi)

The proposed development is in compliance with the criteria identified in Section 20.52.080(C)(2)(c)(vi) which requires the protection of significant views from public right(s)-of-way and compliance with NBMC Section 20.30.100 (Public View Protection).

Facts in Support of Finding of Consistency with Section 20.52.080(C)(2)(c)(vi)

The Project is generally flat and is bordered by existing office buildings and developed roadways. The City's General Plan does not identify any scenic vistas or view points on or proximate to the Property. The nearest public view point to the Property identified in the City's General Plan is approximately 1.14 miles south of State Route (SR) 73 at Bayview Park. The nearest coastal view designated portion of Jamboree Road is approximately 0.6 mile south of the Project. Due to the distance and highly urbanized nature of the Project area, public coastal views along this view corridor would not be impacted by the Project.

Finding of Consistency with Section 20.52.080(F)(3)

The proposed development is not detrimental to the harmonious and orderly growth of the City, nor will it endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of person residing or working in the neighborhood of the proposed development.

Facts in Support of Finding of Consistency with Section 20.52.080(F)(3)

1. The Project would facilitate orderly growth of the City and the Airport Area and within planned growth contemplated in the ICDP.
2. The Project has been designed to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both

businesses and residents by providing an architecturally pleasing project with articulation and building modulations to enhance the urban environment.

3. The proposed residential building has been designed to accommodate and provide safe access for emergency vehicles, delivery trucks, and refuse collections vehicles, as determined by the City Traffic Engineer. Refuse collection is accommodated via two (2) on-site staging areas within the loading zones in front of the building to ensure safe maneuvering by refuse vehicles. Emergency vehicles will have access via Von Karman Avenue and Birch Street and along the spine street.
4. The proposed free-standing parking structure has been designed to accommodate and provide adequate parking for the office users. Adequate signage and lighting will be provided for ease of use and safety of the users.
5. The Property is located approximately 0.44 mile east of the southernmost John Wayne Airport runway and is within the notification area of the AELUP for John Wayne Airport. However, the Project is below the maximum transitional imagery surface heights, and thus the Project is within the building height limits of the AELUP. The Property is located within the 60dBA CNEL noise contours for John Wayne Airport and Safety Zone 6 (Traffic Pattern Zone), where the likelihood of an accident is low. Consistent with the proposed residential overlay, the Project has been conditioned to provide notice to all future residents of potential annoyances or inconveniences associated with residing in proximity to airport operations. Also, a notice is required to be provided in the public park and designated outdoor common and recreational areas advising of aircraft noise
6. Through the building permit process, all plans for construction will be reviewed and approved in compliance with all Building, Public Works, Fire Codes, City ordinances, and all conditions of approval.

Section 4: In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the NBMC, the following findings and facts in support of Lot Line Adjustment No. LA2020-002 are set forth as follows:

Finding of Consistency with Section 19.76.020(l)(1)

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

Facts in Support of Finding of Consistency with Section 19.76.020(I)(1)

1. The General Plan Land Use Designation of MU-H2 (Mixed Use Horizontal 2) will be maintained for the two (2) proposed parcels involved.
2. The lot line adjustment is consistent with the purpose identified in Section 19.76 (Lot Line Adjustments) of the NBMC. The lot line adjustment constitutes a minor boundary adjustment involving the Property (Parcel 1) and the adjacent parcel (Parcel 2). The original number of lots will remain unchanged after the adjustment.
3. The lot line adjustment does not negatively impact surrounding land owners, and will not in itself be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the Koll Center Newport business complex, as the adjustment is necessary to align the subject property lines to be consistent with the Project's development boundaries.

Finding Consistency with Section 19.76.020(I)(2)

The number of parcels resulting from the lot line adjustment remains the same as before the adjustment.

Facts in Support of Finding of Consistency with Section 19.76.020(I)(2)

The proposed lot line adjustment will adjust the property lines between two (2) contiguous parcels. The number of parcels remains the same as before the lot line adjustment.

Finding of Consistency with Section 19.76.020(I)(3)

The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.

Facts in Support of Finding of Consistency with Section 19.76.020(I)(3)

1. Parcel 1 and Parcel 2 would remain within the PC-15 (Koll Center Newport Planned Community Office Site B) Zoning District and no changes are proposed to create more nonconforming as to lot area required by PC-15 than the parcels that existed prior to the lot line adjustment.
2. The lot line adjustment allows the property lines of Parcel 1 to be consistent with development footprints.

Finding of Consistency with Section 19.76.020(I)(4)

Neither the lots as adjusted nor adjoining parcels will be deprived legal access as a result of the lot line adjustment.

Facts in Support of Finding of Consistency with Section 19.76.020(I)(4)

There would be no changes proposed to Parcel 1 and Parcel 2 as both of these parcels will maintain their existing legal accesses via existing driveways and an internal street within Office Site B.

Finding of Consistency with Section 19.76.020(I)(5)

That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.

Facts in Support of Finding of Consistency with Section 19.76.020(I)(5)

There are no public alleys adjacent to the proposed parcels; therefore, this finding does not apply.

Finding of Consistency with Section 19.76.020(I)(6)

That the final configuration of a reoriented lot does not result in any reduction of the street side setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street site setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street side setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.

Facts in Support Finding of Consistency with Section 19.76.020(I)(6)

The final configuration of the proposed parcels does not result in any reduction of the street side setbacks as the adjustments are within the interior of the existing parcels in question.

Section 5: In accordance with Section 15.40.030 (Standards for Approval-Findings-Exemptions) of the NBMC, the following findings and facts in support of Traffic Study No. TS2020-001 are set forth as follows:

Finding of Consistency with Section 15.40.030(A)(1)

That a traffic study for the project has been prepared in compliance with this chapter and Appendix A [NBMC Chapter 15.40].

Facts in Support of Finding of Consistency with Section 15.40.030(A)(1)

Traffic Study No. TS2020-001 entitled Residences at 4400 Von Kaman Analysis, prepared by Kimley-Horn and Associates, Inc., dated October 2020, was prepared for the Project in compliance with Chapter 15.40 (Traffic Phasing Ordinance) of the NBMC.

Finding of Consistency with Section 15.40.030(A)(2)

That, based on the weight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) [NBMC Section 15.40.030(B)(1)] can be made:

Section 15.40.030(B)(1) (Findings for Approval) of the NBMC states: Construction of the project will be completed within sixty (60) months of project approval; and

- a. The project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection, or*
- b. The project including circulation improvements that the project proponent is required to make and/or fund, pursuant to a reimbursement program or otherwise, will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection, or*
- c. The project trips will cause or make worse an unsatisfactory level of traffic service at one or more impacted primary intersection(s) but the project proponent is required to construct and/or fund, pursuant to a reimbursement program or otherwise, circulation improvements, or make contributions, such that:*
 - 1. The project trips will not cause or make worse an unsatisfactory level of traffic service at any impacted primary intersection for which there is a feasible improvement, and*
 - 2. The benefits resulting from circulation improvements constructed or funded by, or contributions to the preparation or implementation of a traffic mitigation study made by, the project proponent outweigh the adverse impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that would, if implemented, fully satisfy the provisions of Section 15.40.030 (B)(1)(b). In balancing the adverse impacts and benefits, only the following improvements and/or contributions shall be considered with the greatest weight accorded to the improvements and/or contributions described in subparagraphs (a) and (b) below:*
 - a. Contributions to the preparation of, and/or implementation of some or all of the recommendations in, a traffic mitigation study related to an impacted primary intersection that is initiated or approved by the City Council,*

- b. *Improvements, if any, that mitigate the impact of project trips at any impacted primary intersection for which there is (are) no feasible improvement(s) that, if implemented, would satisfy the provisions of Section 15.40.030(B)(1)(b),*
 - c. *Improvements that mitigate the impacts of project trips on any impacted primary intersection in the vicinity of the project,*
 - d. *Improvements that mitigate the impacts of project trips on any impacted primary intersection operating, or projected to operate, at or above 0.80 ICU, or*
- d. *The project complies with (1)(b) upon the completion of one or more circulation improvements; and:*
- 1. *The time and/or funding necessary to complete the improvement(s) is (are) not roughly proportional to the impacts of project-generated trips, and*
 - 2. *There is a strong likelihood the improvement(s) will be completed within forty-eight (48) months from the date the project and traffic study are considered by the Planning Commission, or City Council on review or appeal. This finding shall not be made unless, on or before the date of approval, a conceptual plan for each improvement has been prepared in sufficient detail to permit estimation of cost and funding sources for the improvement(s); the improvement(s) is (are) consistent with the circulation element or appropriate amendments have been initiated; an account has been established to receive all funds and contributions necessary to construct the improvement(s) and the improvement is identified as one to be constructed pursuant to the five year capital improvement plan and as specified in Appendix A, and*
 - 3. *The project proponent pays a fee to fund construction of the improvement(s). The fee shall be calculated by multiplying the estimated cost of the improvement(s) by a fraction. The fraction shall be calculated by dividing the "effective capacity decrease" in the impacted primary intersection attributable to project trips by the "effective capacity increase" in the impacted primary intersection that is attributable to the improvement. The terms "effective capacity increase" and "effective capacity decrease" shall be calculated in accordance with the provisions of Appendix A.*

Facts in Support of Finding of Consistency with Section 15.40.030(A)(2)

Based on the weight of the evidence in the administrative record, including Traffic Study No. TS2020-001, and the conditions of approval, all of the findings for approval in Section 15.40.030(B)(1)(a) can be made in that:

1. The Project is anticipated to be complete within 32-month period, well within the 60-month criteria. Therefore, Traffic Study No. TS2020-001 addresses the entire project development.
2. The Traffic Study provides an evaluation of morning and evening peak hours at 25 existing intersections that are located in the City and the adjoining City of Irvine, and two interstate free ramp intersections that are controlled and maintained by the Caltrans.
3. The Project is projected to generate an additional 1,697 trips, 112 AM trips and 137 PM trips. When these trips distributed to these studied intersections, the analysis concludes that there is no significant impact as the project will neither cause nor make worse an unsatisfactory level of service at any impacted primary intersection, and all intersections are forecasted to continue to operate at acceptable Levels of Service.

Finding of Consistency with Section 15.40.030(A)(3)

That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.

Facts in Support of Finding of Consistency with Section 15.40.030(A)(3)

The development plans for the Project includes the recommended improvements to the existing driveways and are included in the resolution of approval. The Project also will be required for the payment of Fair Share fees in accordance with Chapter 15.32 that will be used to fund future planned improvements to the City's circulation system. Additionally, the Project will be required to pay any applicable fees for the Major Thoroughfare and Bridge Fee Program.

Section 6: The Affordable Housing Implementation Plan No. AH2020-003 is consistent with the intent to implement affordable housing goals within the City pursuant to Government Code Sections 65915-65918 (State Density Bonus Law), and Title 20 (Planning and Zoning) including Chapter 20.32 (Density Bonus) of the NBMC for the following reasons:

Facts in Support of Finding of Consistency with Government Code Sections 65915-65918 (State Density Bonus Law), and Chapter 20.32 (Density Bonus)

1. Consistent with the requested twenty-percent density bonus, five percent (13 units) of the project's base units (260) would be set aside as affordable units to very-low income households. Very-low income households are defined as households earning 50 percent or less of the area median income, adjusted for family size for minimum term of 55 years.
2. The State Density Bonus Law and the City's Density Bonus Code provide for an increase in the number of units above General Plan and zoning limits for projects that include a minimum of five percent of the base units affordable to very-low income households earning 50 percent or less of area median income. The project's inclusion of 13 very-low income units, which is 5 percent of the General Plan limit of 260 units, makes the project eligible for 52 additional units for a Project total of 312 units.
3. In addition to the 52 density bonus units and pursuant to Government Code Section 65915(d)(1) and Section 20.32 (Density Bonus) of the NBMC, the Project is entitled to receive one incentive or concession that would result in identifiable, financially sufficient, and actual cost reductions. The Applicant requests a concession for the proposed affordable unit mix that does not meet Section 20.32.070 (Design and Distribution of Affordable Units) of the NBMC. Section 20.32.070 requires affordable units in a density bonus project reflect the same range of unit types in the residential development as a whole. In this case, the Project provides a higher percentage of affordable studio units and fewer affordable two-bedroom units compared to market rate units. Granting this incentive will result in identifiable, financially sufficient, and actual project cost reductions by reducing the long-term rental subsidy costs associated with the two-bedroom units and affording additional rental income for the project to ensure financial feasibility.

Section 7: The recitals provided in this resolution are true and correct and are incorporated into the operative part of this resolution.


Section 8: If any section, subsection, sentence, clause or phrase of this resolution is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or constitutionality of the remaining portions of this resolution. The City Council hereby declares that it would have passed this resolution, and each section, subsection, sentence, clause or phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 9: Environmental Impact Report Addendum No. ER2020-003 was prepared for the Project in compliance with the California Environmental Quality Act (“CEQA”) set forth in California Public Resources Code Section 2100 *et seq.*; CEQA’s implementing regulations set forth in CCR Title 14, Division 6, Chapter 3 (“CEQA Guidelines”) and City Council Policy K-3 (Implementation Procedures for the California Environmental Quality Act) to ensure that the Project will not result in new or increased environmental impacts. On the basis of the entire environmental record, the Project will not result in any new significant impacts that were not previously analyzed in the PEIR for the General Plan 2006 Update (SCH No. 2006011119) and the City of Newport Beach Housing Element Initial Study/Negative Declaration. The potential impacts associated with this Project would either be the same or less than those described in either the PEIR and the City of Newport Beach Housing Element Initial Study/Negative Declaration that have been appropriately mitigated. In addition, there are no substantial changes to the circumstances under which the Project would be undertaken that would result in new or more severe environmental impacts than previously addressed in either the PEIR and the City of Newport Beach Housing Element Initial Study/Negative Declaration, nor has any new information regarding the potential for new or more severe significant environmental impacts been identified. In accordance with Section 15164 of the CEQA Guidelines, the City Council adopted Resolution No. 2021-2, thereby adopting an addendum to the previously adopted PEIR and the City of Newport Beach Housing Element Initial Study/Negative Declaration. Resolution No. 2021-2, including all findings contained therein, is hereby incorporated by reference.

Section 10: This resolution shall take effect immediately upon the effective date of City Council Ordinance No. 2021-1 adopting Planned Community Development Plan Amendment No. PD2020-001, and City Council Ordinance No. 2021-2 adopting Development Agreement No. DA2020-002. The City Clerk shall certify the vote adopting the resolution.

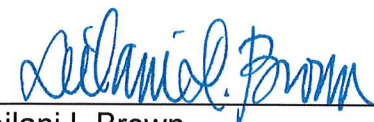
Section 11: This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting the resolution.

ADOPTED this 26th day of January, 2021.

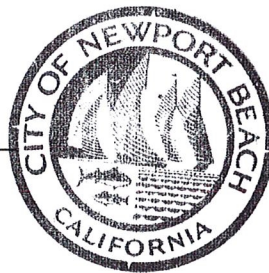


Brad Avery
Mayor

ATTEST:



Leilani I. Brown
City Clerk



APPROVED AS TO FORM:
CITY ATTORNEY'S OFFICE



Aaron C. Harp
City Attorney

Attachments: Exhibit A - Legal Description
 Exhibit B - Conditions of Approval
 Exhibit C - Traffic Impact Study
 Exhibit D - Affordable Housing Implementation Plan and Density Bonus
 Application

Exhibit "A"

Legal Description

PARCEL 1:

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 91-155 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 266, PAGES 16 THROUGH 22 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 2 OF PARCEL MAP NO. 91-155; THENCE ALONG THE NORTHEASTERLY LINE THEREOF NORTH 49°21'34" WEST 584.54 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 41°05'02" WEST 54.87 FEET; THENCE SOUTH 04°16'29" EAST 257.91 FEET; THENCE SOUTH 85°43'31" WEST 685.70 FEET TO A LINE PARALLEL WITH AND 1.00 FEET EASTERLY OF THE EASTERLY RIGHT-OF-WAY LINE OF VON KARMAN AVENUE AS SHOWN ON SAID PARCEL MAP NO 91-155; THENCE ALONG SAID PARALLEL LINE NORTH 06°59'31" WEST 296.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 549.00 FEET; THENCE ALONG SAID CURVE NORTHEASTERLY 90.98 FEET THROUGH A CENTRAL ANGLE OF 09°29'40" TO THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" WEST 204.00 FEET"; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 274.72 FEET; THENCE NORTH 40°38'26" EAST 156.94 FEET TO THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" EAST 204.44 FEET"; THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 166.34 FEET; THENCE NORTH 40°38'26" EAST 284.73 FEET TO SAID NORTHEASTERLY LINE OF PARCEL 2; THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 49°21'34' EAST 157.28 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 4.51 ACRES, MORE OF LESS.

PARCEL 2:

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 91-155 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 266, PAGES 16 THROUGH 22 OF PARCEL MAPS, TOGETHER WITH PARCEL 1 OF

PARCEL MAP NO. 82-713 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 181, PAGES 13 THROUGH 19 OF PARCEL MAPS, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 2 OF PARCEL MAP NO. 91-155; THENCE ALONG THE NORTHEASTERLY LINE THEREOF NORTH 49°21'34" WEST 584.54 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 41°05'02" WEST 54.87 FEET; THENCE SOUTH 04°16'29" EAST 257.91 FEET; THENCE SOUTH 85°43'31" WEST 685.70 FEET TO A LINE PARALLEL WITH AND 1.00 FEET EASTERLY OF THE EASTERLY RIGHT-OF-WAY LINE OF VON KARMAN AVENUE AS SHOWN ON SAID PARCEL MAP NO 91-155; THENCE ALONG SAID PARALLEL LINE NORTH 06°59'31" WEST 296.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 549.00 FEET; THENCE ALONG SAID CURVE NORTHEASTERLY 90.98 FEET THROUGH A CENTRAL ANGLE OF 09°29'40" TO THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" WEST 204.00 FEET"; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 274.72 FEET; THENCE NORTH 40°38'26" EAST 156.94 FEET TO THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" EAST 204.44 FEET"; THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 166.34 FEET; THENCE NORTH 40°38'26" EAST 284.73 FEET TO SAID NORTHEASTERLY LINE OF PARCEL 2; THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 49°21'34' EAST 157.28 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 20.09 ACRES, MORE OF LESS.

SUBJECT TO ALL COVENANTS, RIGHTS, RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

Exhibit "B"

Conditions of Approval

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan consistent with the changes attached to the January 25, 2021, City Council supplemental report, floor plans, landscape 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 compliance with all applicable submittals approved by the City of Newport Beach ("City") and all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. *Site Development Review No. SD2020-006, Lot Line Adjustment No. LA2020-002, Affordable Housing Implementation Plan No. AH2020-003, and Traffic Study No. TS2020-001 shall expire unless exercised within twenty four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code ("NBMC"), unless an extension is otherwise granted by the City for a period of time provided for in the Development Agreement pursuant to the provisions of California Government Code Section 66452.6(a).*
4. *The proposed residential development shall consist of 312 apartment units, inclusive of 260 base units and 52 density bonus units.*
5. *A minimum of 420 on-site parking spaces shall be provided for residents and guest parking to be located within the residential parking structure and in designated parking areas in front the residential building.*
6. *Parking for office uses within Professional and Business Office Site B shall be provided in accordance with the Koll Center Newport Planned Community Development Regulations. All parking spaces displaced by the Project shall be replaced and accommodated within the proposed residential building, existing and reconfigured surface parking lots, and within the proposed free-standing parking structure. Approximately 635 spaces may be removed and replaced as follows: approximately 284 to be located within the new free-standing parking structure, approximately 276 spaces will be located within the residential parking structure, and the remaining 75 spaces (approximate) will be located within the nearby surface parking lots as illustrated on the approved site plan.*
7. *A minimum of 13 apartment units shall be made affordable to very-low income households consistent with the approved Residences at 4400 Von Karman Affordable Housing Implementation Plan (AH2020-003) dated October 2020.*

8. *Prior to the issuance of a building permit for the residential structure, an affordable housing agreement shall be executed in a recordable form as required by the City Attorney's Office.*
9. *On-site recreational amenities: private balconies, a clubroom, a fitness center, podium courtyards, a roof terrace, a dog wash, and a bike shop/storage as illustrated on the approved plans shall be provided and maintained for the duration of the Project.*
10. *Prior to the issuance of a building permit, the Applicant shall enter into an agreement with the City for park improvements, use, and on-going maintenance, subject to the review and approval of the Community Development Department, Recreation and Senior Services Department, and City Attorney's Office.*
11. *A Signage Plan for the park which includes the monument signs on Von Karman Avenue and Birch Street, signage for dedicated parking spaces, and directional signs to the park shall be required. The design and location of the park signage shall be reviewed and approved by the City Recreation and Senior Services Department and Community Development Department prior to fabrication and installation.*
12. *Prior to the issuance of Final Certificate of Occupancy for the residential structure, the improvements to the one-acre park shall be completed by Applicant and the park parcel shall be deeded to the City. In addition to the improvements, a unisex restroom and five (5) 60-minute limited parking spaces shall be provided and maintained.*
13. *Maximum height of the residential structure shall be 71 feet. No building or any portion of structure, architectural feature or mechanical equipment shall exceed 71 feet.*
14. *Maximum height of the free-standing structure shall be 45 feet. No building or any portion of structure, mechanical equipment or elevator shafts shall exceed 59 feet.*
15. *The residential/office parking garage and free-standing parking structures shall have the following features:*
 - a. *A safe, secure and well lighted and signed pedestrian paths for all users.*
 - b. *Adequate and uniform lighting throughout each parking level.*
 - c. *Panic alarms and two-way communication systems in prominent locations on each parking level.*
16. *In addition to the required design features stated in the previous condition, the free-standing parking structure shall have the following features:*

- a. A wall system that would partially obscure vehicle lights and reduce noise from within the structure.
 - b. The lighting for upper (roof) level shall be limited parking lot lighting standards not in excess of 25 feet above the driving surface.
17. At least three pedestrian connections, as shown on the approved plans, shall be provided and maintained by the property owner or its assignee. The connections shall be improved with sidewalks and canopy trees and may include enhanced pavement, seating areas or other amenities to create a convenient, safe and pleasant walkway subject to the review and approval of the Community Development Director. All pedestrian connections shall be improved, completed, and inspected by the Community Development Department, prior to the issuance of Final Certificate of Occupancy for the residential building.
18. Prior to the issuance of a building permit for the residential structure, an acoustical analysis report, prepared by an acoustical engineer, shall be submitted to the Planning Division describing the acoustical design features of the residential structure that will satisfy the exterior and interior noise standards. The Project shall be attenuated in compliance with the report.
19. Prior to the issuance of a building permit, Lot Line Adjustment No. LA2020-002 shall be recorded.
20. The Applicant shall comply with all applicable provisions of NBMC Chapter 15.38, Fair Share Traffic Contribution Ordinance, and Chapter 15.42, Major Thoroughfare and Bridge Fee Program. Prior to the issuance of a building permit, Fair Share and Transportation Corridor Agency fees shall be paid.
21. Prior to the issuance of a building permit for the residential structure, the Applicant shall pay applicable school fees.
22. Prior to the issuance of a building permit, Applicant shall pay applicable property development tax as required pursuant to NBMC Chapter 3.12 (Property Development Tax).
23. The property management company shall distribute a written disclosure statement prior to lease or rental of any residential unit. The disclosure statement shall indicate that the occupants will be living in an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area. In addition, potential annoyances or inconveniences associated with residing in proximity to airport operations such as noise, vibration, and odor may occur. The disclosure statement shall include a written description of the potential impacts to residents of both the existing environment and potential impacts based upon the allowed uses in the zoning district and proximity to airport. Each and every lessee or renter shall sign the statement acknowledging that they have received, read, and understand the disclosure statement. The Applicant shall covenant to include within all deeds, leases or contracts conveying any interest in

the Project: (1) the disclosure and notification requirement stated herein; (2) an acknowledgment by all grantees or lessees that the property is located within an urban type of environment and that the noise, odor, and outdoor activity levels may be higher than a typical suburban residential area; and (3) acknowledgment that the covenant is binding for the benefit and in favor of the City of Newport Beach.

24. *Prior to the issuance of Final Certificate of Occupancy, signage shall be installed within the one-acre park informing the public of the presence of operating aircraft at the John Wayne Airport. The final design and location of the signage shall be reviewed and approved by the City prior to installation.*
25. Any substantial modification to the approved Site Development Review plans, as determined by the Community Development Director, shall require an amendment to this Site Development Review application or the processing of a new application.
26. A copy of the Resolution, including conditions of approval Exhibit "G" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
27. Prior to the issuance of a building permit, Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review 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 Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
28. *Prior to the issuance of a building permit, Applicant shall submit a detailed landscape and irrigation plan prepared by a licensed landscape architect for the one-acre park, all open space areas, private courtyards, and three pedestrian connections to Uptown Newport project. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Community Development Department and Fire Department.*
29. 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.
30. 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.

31. Prior to the issuance of a building permit, the Applicant shall prepare photometric study for the residential building and free-standing parking structure in conjunction with a final lighting plan for approval by the Planning Division. All outdoor lighting fixtures shall be designed, shielded, aimed, located, and maintained to shield adjacent properties and to not produce glare onto adjacent properties or roadways. Parking lot light fixtures and light fixtures on buildings shall be full cut-off fixtures.
32. Prior to the issuance of Final Certificate of Occupancy for each individual building (residential building and free-standing garage), the Applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare specified in conditions of approval.
33. 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.
34. 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

35. 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.
36. 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.
37. *Refuse collection shall comply with the Waste Management Plan included in the approved plans. The Applicant's property management company shall contract with a franchised hauler on the City list of authorized companies.*
38. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view

of neighboring properties, except when placed for pick-up by refuse collection agencies.

39. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of NBMC Title 14 (Water and Sewers), including all future amendments (including Water Quality related requirements).
40. 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 Residences at 4400 Von Karman including, but not limited to, Planned Community Development Plan Amendment No. PD2020-001, Site Development Review No. SD2020-006, Lot Line Adjustment No. LA2020-002, Affordable Housing Implementation Plan No. AH2020-003, Traffic Study No. TS2020-001, Development Agreement No. DA2020-002, and Addendum to the 2006 General Plan Update Program Environmental Impact Reports No. ER2020-003 (PA2020-061). 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.

Fire Department

41. *The drive aisle adjacent to the free-standing parking structure shall be a 20-foot minimum drive aisle with proper turning radius to be used for fire access only. Final design of the drive aisle shall be approved by the Fire Marshall and the City Traffic Engineer.*
42. *A fire apparatus access road shall be provided as per Newport Beach Fire Department Guideline C.01. The fire apparatus road shall extend to within 150 feet of all the facility and all portions of the exterior walls of the residential building's first story unless alternatives are approved by the Fire Marshal.*
43. *A fire apparatus access drive shall be placed in between the two existing buildings to provide access to the rear of the proposed apartment building. The access way shall be designed to the requirements of the Fire Marshal.*

44. *A fire hydrant shall be installed within 400 feet of the fire department access way serving the rear of the proposed apartment building. The precise location of the proposed fire hydrant will be approved by the Fire Marshal.*
45. *Wall mounted standpipe connections shall be installed adjacent to Stair Well #2 and #3 to provide water for fire operations to the rear of proposed apartment building.*
46. *Standpipes shall be provided on the roof of the proposed apartment building near the termination of Stair Well #2 and #3 to support fire operations on the roof of the structure.*
47. *Standpipes shall be provided at the rear of the proposed apartment building when combustible construction begins at grade level. Temporary water lines, as approved by the Fire Marshal, may be used to supply these stand pipes until permanent fire water lines are established.*
48. A fire flow shall be required per Newport Beach Fire Department (NBFD) Guideline B.01 "Determination of Required Fire Flow." The fire flow shall also determine the number of fire hydrants requirement for the Project.
49. Emergency responder radio coverage shall be required to comply with NBFD Guideline D.05 "Public Safety Radio Coverage" and CFC Section 510.
50. Emergency power and Standby Power System shall be required as per CFC Section 604.2.14.
51. An automatic sprinkler system shall be installed in accordance with CFC Section 903.2 amendment shall be provided throughout all buildings.
52. A standpipe system shall be required and installed as per CFC Section 905.3.1.
53. Fire Alarm system shall be provided as per CFC Section 907.2.9.
54. Emergency Power Outlets shall be required (120-volt Duplex) and shall be connected to the emergency generator circuitry/system when a generator is required by Section 604.2 of the CFC in every fire control room and in other areas as may be designated by the Fire Code office, per CFC Section 604.2.15.2.2 Amendment. The electrical outlets shall be provided in the following locations:
 - a. In the main exit corridor of each floor, adjacent to each exit enclosure;
 - b. In each elevator lobby;
 - c. On every level in every stairwell;
 - d. In public assembly areas larger than 1,500 square feet;
 - e. In every fire control room; and
 - f. In such other areas as may be designed by the fire code official.

55. Elevators shall be gurney sized and equipped as a medical emergency elevator as CBC Section 3002.
56. *Fire Department Connections shall be located on the address side of the building and a minimum of 30 feet from beginning of the radius for the driveway approach; arranged so they are located immediately adjacent to the approved Fire Department's access road so that hose lines can be readily and conveniently attached to the inlets without interference from nearby objects including building, fence, posts, or other fire department connections per Nbfd Guideline F.04.*
57. *The FDCs shall be located no more than 100' from a public hydrant. The FDCs may be located within 100' of a private hydrant if the FDC is connected to the fire sprinkler system by a dedicated pipe that connects on the system side of the sprinkler system check valve per Nbfd Guideline F.04.*
58. *The landscape plans shall be reviewed by the Fire department prior to installation of trees that may interfere with potential fire ladder operations at the rear of the proposed apartment building.*

Building Division

59. 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.
60. 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 feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two 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 carpooling 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-inch surface layer, subject to review/discretion of the geotechnical engineer.
61. Prior to the issuance of a grading permit, a Storm Water Pollution Prevention Plan (SWPPP) and Notice of Intent (NOI) to comply with the General Permit for Construction Activities shall be prepared, submitted to the State Water Quality Control Board for approval and made part of the construction program. The Applicant will provide the City with a copy of the NOI and their application check as proof of filing with the State Water Quality Control Board. This plan will detail measures and practices that will be in effect during construction to minimize the project's impact on water quality.
 62. Prior to the issuance of a grading permit, the Applicant shall prepare and submit a Final Water Quality Management Plan (WQMP) for the Project, subject to the approval of the Building Division and Code and Water Quality Enforcement Division. The WQMP shall provide appropriate Best Management Practices (BMPs) to ensure that no violations of water quality standards or waste discharge requirements occur.
 63. 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.

Residential Structure and Parking Garage

64. *Prior to the issuance of a grading permit, grading bonds shall be required to be submitted and reviewed by Building Division staff and approved by the City Attorney.*
65. *The required wall and opening protection requirements for the existing building adjacent to proposed building shall be maintained. (503.1.2, Table 508.4, Table 705.8 and 705.3).*
66. *Story/rooms/spaces with a common path of egress travel exceeding 125 feet for R2 Occupancy shall have two separate and distinct means of egress. (1006.2.1).*
67. *Openings in interior exist stairways shall be limited to those necessary for exit access to the enclosure from normally occupied spaces and for egress from the enclosure.*
68. *Exits shall be separated by one-third the diagonal dimension of the building or area served when the building is equipped with fire sprinklers throughout in accordance with NFPA 13. (1007.1.1).*
69. *Exterior balconies, stairways and ramps shall be located at least 10 feet (3048 mm) from adjacent lot lines and from other buildings on the same lot unless the adjacent building exterior walls and openings are protected in accordance with Section 705 based on fire separation distance. (1027.3).*
70. *Horizontal exit shall not serve as the only exit from a portion of a building, and where two or more exits are required, not more than one-half of the total number of exits shall be horizontal exits. (1026.1).*
71. *Exit discharge shall not cross interior property lines; must be located within its own property.*
72. *Emergency egress for sleeping rooms below the fourth story above grade plan in accordance with Section 1030.1 shall be provided.*
73. *The required low-emitting, fuel-efficient, electrical, and carpool/van pool vehicle(s) per CALGreen shall not occupy the same space as for the required accessible stall(s).*
74. *Elevators shall be protected with lobbies or acceptable alternative per CBC.*

75. *The residential dwelling units and their common use areas shall comply with Housing Accessibility per Chapter 11A.*
76. *The nonresidential portion of the development shall comply with the public accommodation requirements per Chapter 11B.*

Free-standing Parking Structure

77. *The free-standing parking structure shall be equipped with NFPA 13 sprinklers.*
78. *Exterior walls fire rated construction and allowable openings of the free-standing parking structure shall comply with Sections 601, 602, & 705.8.*
79. *Accessible path of travel from the free-standing parking structure connecting to other building served shall be provided.*
80. *The free-standing parking structure's elevators shall be required for accessible path of travel.*
81. *Two-way communication system complying with Section 1009.8 shall be provided at the free-standing parking structure's elevator landings on floors that is one or more stories above or below the level of exit discharge when vehicular ramps do not comply with Section 1012.*
82. *Standard and Van accessible parking stalls shall be provided within the free-standing parking structure, in accordance with Section 11B-208.2.*
83. *Clean Air Vehicles shall be provided within the free-standing parking structure, in accordance with Section 5.106.5.2 of CalGreen. These stalls shall not be counted as providing required accessible stalls.*

Public Works Department

84. **All improvements shall be constructed as required by Ordinance and the Public Works Department.**
85. **All existing broken and/or otherwise damaged curb, gutter and sidewalk along the Von Karman Avenue and Birch Street Project frontages shall be reconstructed.**
86. *The Von Karman Avenue sidewalk along the Project frontage is designated for bicycle riding per Resolution 82-148. A bicycle sidewalk along Von Karman Avenue, from the main Project entry to the intersection of Birch Street and Von Karman Avenue, shall be constructed. The final design of the sidewalk, including the sidewalk width, shall be reviewed and approved by City Traffic Engineer.*
87. *At the west entrance to the free-standing parking structure, a turn-around space shall be provided, or signage indicating the height restrictions for the first level of the structure shall be installed, as approved by the City Traffic Engineer.*

88. *The Project's driveway approaches per City Standard 161-L (Commercial Driveway Approach Type II) shall be reconstructed. The Project's driveways shall accommodate one inbound lane and two outbound lanes (one left-turn only and one right turn only lane).*
89. *The internal roadway shall comply with City Council Policy L-4 with a minimum curb to curb width of 32-feet wide, with parking on one side or no parking.*
90. *The Applicant shall provide water and sewer demand studies for review. Water demand study shall be reviewed and approved by Irvine Ranch Water District. All required improvements shall be the sole responsibility of the development.*
91. All water improvements shall be reviewed and approved by the Irvine Ranch Water District.
92. All unused sewer laterals to be abandoned shall be capped at the Project's property line. If the sewer lateral to be abandoned has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye used to be.
93. All improvements shall comply with the City's sight distance requirement per City Standard 110-L and Municipal Code 20.30.130.
94. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.
95. All on-site Project drainage shall comply with the latest City Water Quality requirements.
96. *The Project's parking lot and parking structures shall be per City Standards 805-L- A and 805-L-B. All dead-end drive aisles shall provide a dedicated turn-around area and 5-foot minimum drive aisle extension.*
97. *A new sewer cleanout shall be added to all existing sewer laterals servicing the Project site. A sewer manhole shall be placed on public side of the property line within the Von Karman Avenue driveway.*
98. *A sewer system management plan shall submit for review and approval by the Utilities Department. Plan shall be approved prior to the issuance of building permit.*
99. *All gated entries for the parking structures and surface lots shall provide a minimum three (3) vehicle stacking area prior to the gate. The vehicle stacking shall not impact or block the sidewalks or street area. All gated entries shall provide a turn-around area prior to the gate, or provide other means that allow drivers to exit that is acceptable to the City Traffic Engineer.*

100. *The final Project parking layout and on-site circulation shall be reviewed and approved by City Traffic Engineer prior to the issuance of building permit. The Project parking lots and parking structures shall be per City Standards STD-805-L-A and STD-805-L-B. All dead-end drive aisles shall provide a dedicated turn-around area and 5-foot minimum drive aisle extension.*
101. *The gate adjacent to the ramp on Basement Level B1 shall be relocated to eliminate conflict and queuing on the ramp.*
102. *The City recommends that the free-standing parking structure to be relocated to another area of the Project or relocated the existing City's storm drain line and associated easement to an area outside of the free-standing parking structure. If the developer and/or property owner wishes to build the stand-alone parking structure over the existing storm drain, the City requires the following items to be reviewed and approved prior to the issuance of building permit for the free-standing parking garage:*
 - a. *Execution of an agreement to transfer the risk and liability away from the City and to the developer and property owners;*
 - b. *Provide a detailed inspection and conditions assessment of the existing storm drain line and repairs;*
 - c. *Reconstruction of the storm drain line under the proposed new parking structure to provide a new service life that matches the proposed new parking structure;*
 - d. *Add additional inspection manholes on both sides of the proposed parking structure;*
 - e. *Hydraulic analysis of the storm drain system and pipe;*
 - f. *Hydrology analysis of the area; and*
 - g. *Review other potential engineering solutions.*
103. *Prior to the issuance of building permit, the Applicant shall submit a parking management plan for the Project, including a narrative of the entry gate operations, queuing, internal gates, users, grace period, assigned parking, etc. Parking Management Plan shall be reviewed and approved by the City Traffic Engineer.*
104. *Prior to the issuance of building permit, the Applicant shall submit a construction management and delivery plan to be reviewed and approved by the Community Development, Fire and Public Works Departments. Upon approval of the plan, the Applicant shall be responsible for implementing and complying with the stipulations set forth in the approved plan. The plan shall include the followings:*

- a. *Discussion of Project phasing;*
- b. *Staging areas for construction trailer(s) and materials and equipment;*
- c. *Parking arrangements for construction workers for both sites during each phase of the construction;*
- d. *Anticipated haul routes for all construction phases;*
- e. *Emergency vehicle access and staging area(s) during all construction phases;*
- f. *Wayfinding signage to assist office users to the available parking locations for each phase of construction; and*
- g. *Pedestrian access plan to demonstrate safe and walkable pedestrian paths during each phase of construction.*

Exhibit "C"

RESIDENCES AT 4400 VON KARMAN PROJECT

Traffic Impact Study

Prepared by:

Kimley-Horn and Associates, Inc.
765 The City Drive, Suite 200
Orange, California 92868

Kimley»Horn

Expect More. Experience Better.

October 2020

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1 INTRODUCTION

This Traffic Impact Study has been prepared to evaluate the potential traffic-related impacts associated with the proposed Residences at 4400 Von Karman (“Project”). This report has been prepared in accordance with the City of Newport Beach Traffic Phasing Ordinance (TPO) traffic impact study requirements, County of Orange Congestion Management Program (CMP) requirements, and in support of the environmental documentation for the Project, per the California Environmental Quality Act (CEQA) requirements.

This analysis has been undertaken to analyze whether the proposed Residences at 4400 Von Karman Project would result in any new or substantially more severe significant environmental impacts as compared to the conclusions in the *City of Newport Beach General Plan Update Final Environmental Impact Report* (EIR) (2006). The purpose of this analysis is to document whether any new traffic-related impacts would occur compared to the City’s General Plan EIR, based on the proposed Project (described below) pursuant to State CEQA Guidelines Section 15164.

2 PROJECT DESCRIPTION

2.1 Project Location

The project site is located at the southeast corner¹ of Birch Street and Von Karman Avenue in the Airport Area of the City of Newport Beach. A vicinity map is provided on **Figure 1**. The approximately 13.00-acre site is relatively flat at an approximate elevation of 46 to 52 feet above mean sea level (msl).

The project site is an irregularly shaped property generally bordered by Birch Street to the northeast, Von Karman Avenue to the west, and existing office uses and associated surface parking lots and parking structures to the east and south within Koll Center Newport. The Property currently provides a common pool of structured and surface parking to serve office tenants within the Koll Center Newport. Koll Center Newport is an approximately 154-acre mixed-use development area generally bordered on the northeast by Campus Drive, on the southeast by Jamboree Road, and on the west by MacArthur Boulevard.

Regional access to the site is from State Route 73 (SR-73) via Jamboree Road to the south and Interstate 405 (I-405) via Jamboree Road to the north. Vehicular access to the site is provided from Birch Street and Von Karman Avenue. Currently, there are three driveways on Birch Street and two driveways on Von Karman Avenue.

The site is approximately 0.5 mile southwest of John Wayne Airport, 0.5-mile northwest of the San Joaquin Freshwater Marsh Reserve, and 1.5 miles northwest of the University of California, Irvine (UCI).

¹ As shown on Figure 1, the streets adjacent to the project site are oriented on a diagonal. For purposes of this report, Jamboree Road, MacArthur Boulevard, and Von Karman Avenue are considered to be the north-south streets, and Birch Street is an east-west street.

2.2 Existing Land Uses and Access

The project site is located within the surface parking areas serving the existing Koll Center Newport office park. Proximate to the project site, Koll Center Newport consists of general office buildings with surface parking and a parking structure; the parking structure is for the 5000 Birch office building. The existing office buildings located within the boundaries of the project site (4440 Von Karman, 4490 Von Karman, and 4910 Birch), or immediately contiguous to the site (5000 Birch, 4340 Von Karman, and 4350 Von Karman) are not a part of the proposed development. Access to Koll Center Newport is currently provided by two driveways on Von Karman Avenue, and three driveways on Birch Street. All driveways are currently unsignalized and gated. The existing Koll Center Newport site is shown on **Figure 2**.

2.3 Proposed Project and Access

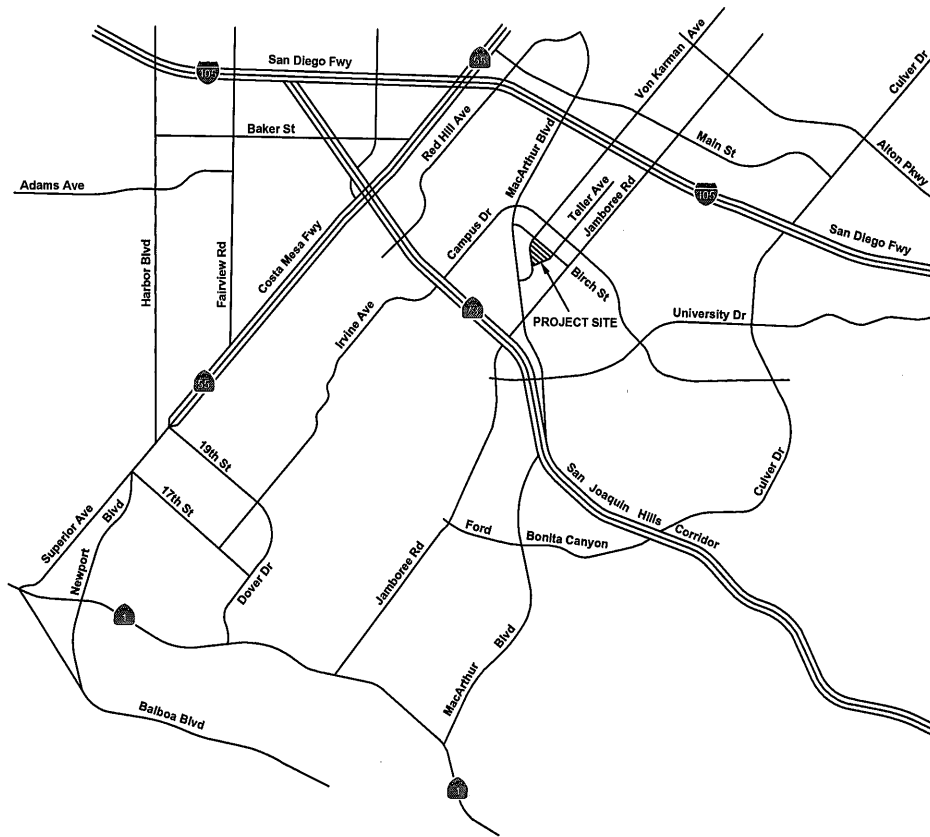
The proposed Project would allow for 312 residential apartments with structured parking, a 0.5-acre public park, a free-standing parking structure, and the reconfiguration of some of the existing parking areas. The 312 apartment units would include 299 market-rate units and 13 very-low income affordable units. The Project would include 55 studio units, 149 one-bedroom units, and 108 two-bedroom units. The residential building is proposed as a five-story podium building with three levels of structured parking (one level on-grade and two levels below ground). The proposed 0.5-acre public park would be centrally located to the project site and would be approximately equidistant from Birch Street and Von Karman Avenue. The conceptual site plan is shown on **Figure 3**.

As noted, access to the Koll Center Newport is currently provided via three driveways on Birch Street and two driveways on Von Karman Avenue. Upon completion of the proposed Project, access to the project site, as well as existing office buildings, would be provided via two full-movement locations on Birch Street and one full-movement location on Von Karman Avenue.

To allow for the construction of the proposed Project, some of the existing surface parking areas and the common landscape areas would be demolished. All residential parking would be provided in the residential building's parking structure. Office parking displaced by the Project would be provided in a new, free-standing parking structure, in the residential building's parking structure, and surface parking. Visitors to the publicly-accessible park can use surface parking east of the residential building. The Project will provide 565 parking spaces for its residential units and 626 parking spaces for office uses, including 275 parking spaces in the free-standing parking structure.

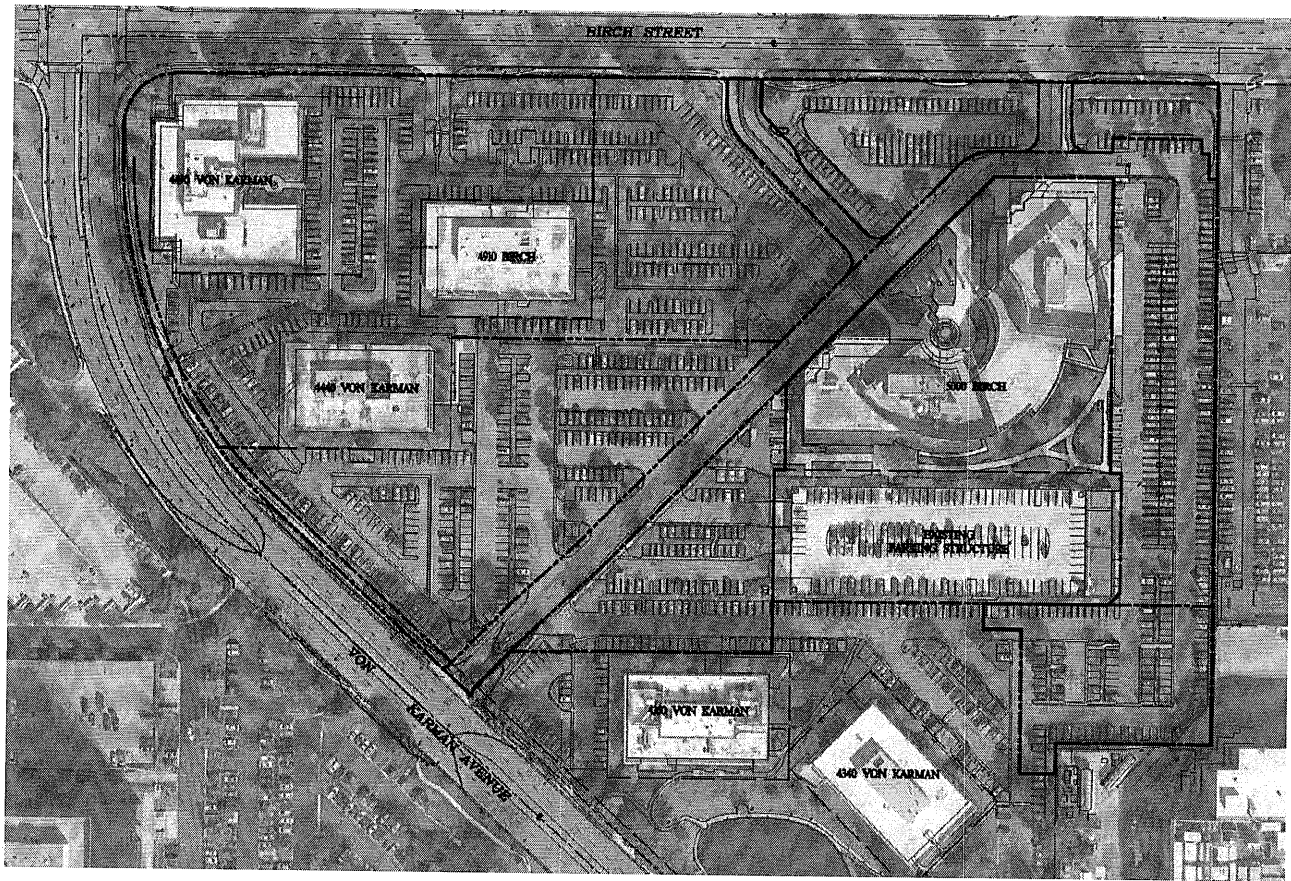


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**FIGURE 1
VICINITY MAP**

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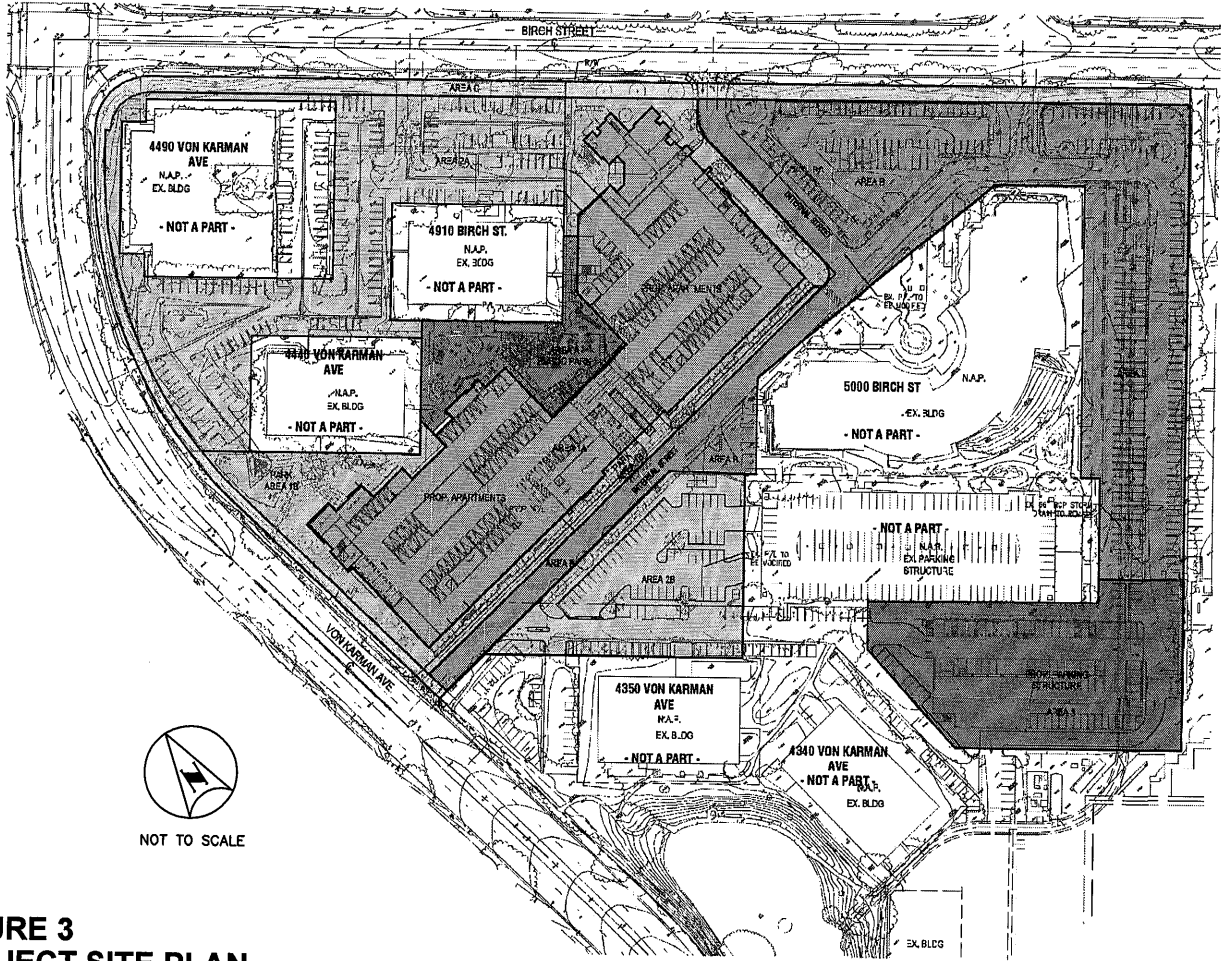


**FIGURE 2
EXISTING PROJECT SITE**



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**FIGURE 3
PROJECT SITE PLAN**

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3 METHODOLOGY

3.1 Study Area

This traffic analysis provides an evaluation of morning and evening peak hour intersection at 25 intersections. The study intersections consist of a combination of intersections in the City of Newport Beach and the adjoining City of Irvine. The study area and study intersection list reflect input received from the cities of Newport Beach and Irvine. The locations of the study intersections are shown on **Figure 4**. Of the 25 study intersections, 8 are controlled and maintained by the City of Irvine and 15 are controlled and maintained by the City of Newport Beach. The two Interstate 405 (I-405) freeway ramp intersections at Jamboree Road are controlled and maintained by the California Department of Transportation (Caltrans).

Study Area Intersections

<u>No.</u>	<u>Intersection</u>	<u>Jurisdiction</u> ¹	<u>Traffic Control</u>
1	MacArthur Boulevard at Campus Drive ¹	Irvine	Signal
2	MacArthur Boulevard at Birch Street	Newport Beach	Signal
3	MacArthur Boulevard at Von Karman Avenue	Newport Beach	Signal
4	MacArthur Boulevard at Jamboree Road ^{1,2}	Newport Beach	Signal
5	Von Karman Avenue at Michelson Drive	Irvine	Signal
6	Von Karman Avenue at Campus Drive ¹	Irvine	Signal
7	Von Karman Avenue at Birch Street	Newport Beach	Signal
8	Teller Avenue at Birch Street	Newport Beach	2-way Stop
9	Jamboree Road at I-405 NB Ramps ²	Caltrans	Signal
10	Jamboree Road at I-405 SB Ramps ²	Caltrans	Signal
11	Jamboree Road at Michelson Drive	Irvine	Signal
12	Jamboree Road at Campus Drive ¹	Irvine	Signal
13	Jamboree Road at Birch Street ¹	Irvine	Signal
14	Jamboree Road at Fairchild Drive ¹	Irvine	Signal
15	Jamboree Road at Bristol Street N	Newport Beach	Signal
16	Jamboree Road at Bristol Street S	Newport Beach	Signal
17	Jamboree Road at Bayview Way	Newport Beach	Signal
18	Jamboree Road at University Drive	Newport Beach	Signal
19	University Drive at Campus Drive	Irvine	Signal
20	Bristol Street N at Campus Drive	Newport Beach	Signal
21	Bristol Street S at Irvine Avenue / Campus Drive	Newport Beach	Signal
22	Irvine Avenue at Mesa Drive	Newport Beach	Signal
23	Birch Street at Bristol Street N	Newport Beach	Signal
24	Birch Street at Bristol Street S	Newport Beach	Signal
25	Bayview Place at Bristol Street S	Newport Beach	Signal

¹ For “shared” intersections on the boundary between the two cities, the city listed indicates the city that maintains and controls the signal. Freeway ramp intersections are maintained and operated by Caltrans.

² Designated County of Orange Congestion Management Program (CMP) intersection.

Each intersection has been analyzed using the methodology and parameters employed by the city in which the intersection is located. For “shared” intersections on the city boundary, the intersection analysis is based on the methodology used by the City that controls and maintains the signal.

3.2 Analysis Methodology

Intersection analysis for all signalized intersections has been conducted using the Intersection Capacity Utilization (ICU) methodology, which is the methodology utilized by both cities, as well as the Orange County Congestion Management Program (CMP). Intersections that are located at an Interstate Highway intersection are also analyzed in accordance with Caltrans requirements, using a separate methodology, as discussed later in this report.

The ICU methodology provides a comparison of the theoretical hourly vehicular capacity of an intersection to the number of vehicles actually passing through that intersection during any given hour. The ICU calculation assumes an hourly per-lane capacity for each lane through the intersection, and a clearance factor to account for the effect of yellow and red signal phases.

Variations in analysis input parameters between the cities of Newport Beach and Irvine have been accounted for in the analysis. The following presents the ICU parameters for each of the cities.

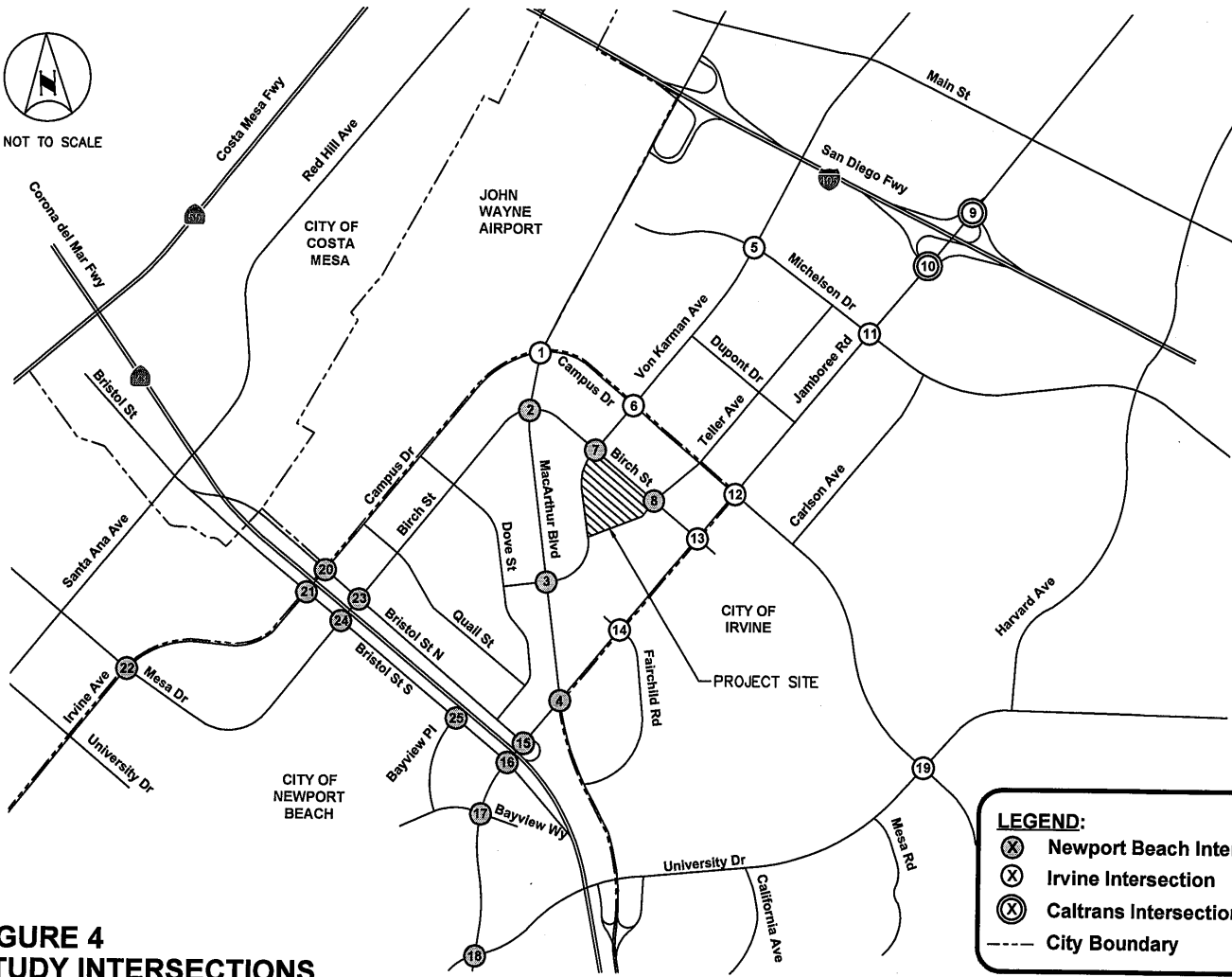
<u>ICU Parameter</u>	<u>City of Newport Beach</u>	<u>City of Irvine</u>
Saturation Flow Rate / Lane	1,600 vehicles per hour (vph)	1,700 vehicles per hour (vph)
Clearance Interval	0	.05 of cycle length
Right-turn-on-red allowed ¹	NA	Yes
ATMS Credit ²	NA	.05
Critical Movement / ICU calculation	3 decimals for each critical movement, summed and rounded to 2 decimals for the final ICU for the TPO analysis, and 3 decimals for the CEQA analysis	2 decimals for each critical movement and final ICU
¹ Right-turn-on-red is allowed from exclusive right-turn lanes. For the City of Irvine, "unofficial" right-turn lanes (known as a de facto right-turn lane) are assumed in the ICU calculation if 19 feet of travel lane exists from lane stripe to edge of roadway, and curbside parking is prohibited during peak periods. ² ATMS is an advanced traffic signal management system employed by the City of Irvine to allow the control of signal operations in real-time response to traffic conditions at the intersection. Intersections with the ATMS equipment installed are given a 0.05 capacity credit. The ATMS credit is not applied to intersections located within the Irvine Business Complex (IBC). One study intersection (University Drive at Campus Drive) has the ATMS equipment installed. The ATMS credit is applied in all study scenarios.		

Intersection analysis for unsignalized intersections has been conducted using the Highway Capacity Manual (HCM) methodology, which returns a delay value, expressed in terms of the average seconds of delay per vehicle.

Operating conditions for both ICU and HCM methodologies are expressed in terms of “Level of Service” which is also referred to by its acronym, LOS. The ICU calculation returns a volume-to-capacity (V/C) ratio that translates into a corresponding Level of Service, ranging from LOS A, representing uncongested, free-flowing conditions; to LOS F, representing congested, over-capacity conditions.



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**FIGURE 4
STUDY INTERSECTIONS**

LEGEND:

- ⊗ Newport Beach Intersection
- ⊗ Irvine Intersection
- ⊙ Caltrans Intersection
- - - City Boundary

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A summary description of each Level of Service and the corresponding V/C ratio or delay is provided below.

LEVEL OF SERVICE DESCRIPTIONS			
Level of Service	Signalized: ICU	Unsignalized: HCM ¹	Description
	V/C Ratio	Delay (sec)	
A	0.00 - 0.60	≤10	EXCELLENT – No vehicle waits longer than one red light, and no approach phase is fully used.
B	0.61 - 0.70	> 10 and ≤ 15	VERY GOOD – An occasional approach phase is fully utilized; drivers begin to feel somewhat restricted within groups of vehicles.
C	0.71 - 0.80	> 15 and ≤ 25	GOOD – Occasionally, drivers may have to wait through more than one red light; back-ups may develop behind turning vehicles.
D	0.81 - 0.90	> 25 and ≤ 35	FAIR – Delays may be substantial during portions of the rush hours, but enough lower volume periods occur to permit clearing of developing lines, preventing excessive back-ups.
E	0.91 - 1.00	> 35 and ≤ 50	POOR – Represents the most vehicles that the intersection approaches can accommodate; may be long lines of waiting vehicles through several signal cycles.
F	> 1.00	> 50	FAILURE – Back-ups from nearby locations or on cross streets may restrict or prevent movement of vehicles out of the intersection approaches. Tremendous delays with continuously increasing queue lengths.

LOS = Level of Service; ICU = Intersection Capacity Utilization; HCM = Highway Capacity Manual; V/C = volume-to-capacity
¹Source: Highway Capacity Manual, 6th Edition

3.3 Performance Criteria

The City of Newport Beach target Level of Service (LOS) for peak hour operation of signalized intersections is LOS D or better, except for designated intersections within the Airport Area shared with the City of Irvine, where LOS E is acceptable. The shared Airport Area intersections applicable to the proposed Project are as follows:

- | <u>No.</u> | <u>Intersection</u> |
|------------|---|
| 1. | MacArthur Boulevard at Campus Drive ¹ |
| 4. | MacArthur Boulevard at Jamboree Road ² |
| 6. | Von Karman Avenue at Campus Drive ¹ |
| 12. | Jamboree Road at Campus Drive ¹ |
| 13. | Jamboree Road at Birch Street ¹ |
| 14. | Jamboree Road at Fairchild Road ¹ |

¹ Will be analyzed using the City of Irvine ICU parameters

² Will be analyzed using the City of Newport Beach ICU parameters

In the City of Irvine, the target Level of Service is LOS D, except where the intersection is located within the Irvine Business Complex (IBC) or the Irvine Spectrum area. A map of the IBC is provided in Appendix G. For these intersections, the target Level of Service is LOS E. The following study intersections are located in the IBC:

<u>No.</u>	<u>Intersection</u>
1.	MacArthur Boulevard at Campus Drive ¹
4.	MacArthur Boulevard at Jamboree Road ²
5.	Von Karman Avenue at Michelson Drive ¹
6.	Von Karman Avenue at Campus Drive ¹
9.	Jamboree Road at I-405 Northbound Ramps ^{1,3}
10.	Jamboree Road at I-405 Southbound Ramps ^{1,3}
11.	Jamboree Road at Michelson Drive ¹
12.	Jamboree Road at Campus Drive ¹
14.	Jamboree Road at Fairchild Road ¹

¹ Will be analyzed using the City of Irvine ICU parameters

² Will be analyzed using the City of Newport Beach ICU parameters

³ Will be analyzed using Caltrans HCM parameters

3.4 Significance Thresholds

City of Newport Beach

To determine whether the addition of project-generated trips at a signalized study intersection results in a significant impact, the City of Newport Beach has adopted the following thresholds of significance:

- A significant impact would occur when the addition of project-generated trips causes the Level of Service at a study intersection to deteriorate from an acceptable (LOS D, except for intersections on a CMP facility, or designated intersections in the Airport Area, where LOS E is acceptable) to a deficient Level of Service.
- A significant impact would occur when the addition of project-generated trips increases the ICU at a study intersection by one percent or more (v/c increases by 0.010 or more), worsening a projected baseline condition of LOS E or F.

For unsignalized intersections operating at an unacceptable Level of Service, a signal warrant analysis will be conducted to determine if a signal is warranted. The signal warrant analysis will be conducted according to the California Manual of Uniform Traffic Control Devices (MUTCD).

City of Irvine

All of the study intersections in the City of Irvine are signalized. To determine whether the addition of project-generated trips at a signalized study intersection results in a significant impact, the City of Irvine has adopted the following significance threshold:

- A significant impact would occur when the intersection exceeds the acceptable Level of Service (LOS D except for intersections located in the IBC or on a CMP facility, where LOS E is acceptable) in the baseline condition and the impact of the development is greater than or equal to two percent (v/c increase by 0.02 or more), or;
- The Project increases the ICU by one percent or more (v/c increases by 0.01 or more) at a study intersection, causing it to become deficient.

Caltrans

A separate analysis of the Intersection Highway intersections using the analysis methodology and significance thresholds specified in the *Caltrans Guide for the Preparation of Traffic Impact Studies* is provided in a separate section of this report.

3.5 Study Scenarios

Each of the study intersections has been analyzed for the following scenarios:

- Existing Conditions
- TPO Analysis Year 2025 Without Project
- TPO Analysis Year 2025 With Project
- CEQA Analysis Year 2025 Without Project
- CEQA Analysis Year 2025 With Project
- Post-2030 General Plan Buildout ¹
- Post-2030 General Plan Buildout With Project ²

¹ The Newport Beach Traffic Model (NBTM) Traffic Analysis Zone (TAZ) 1405, where the project site is located, consists of 128 apartment units, 128,610 square feet of general commercial use, and 695,137 square feet of office use

² This "With Project" scenario assumes an additional 184 dwelling units, for a total of 312 dwelling units, as proposed by the Project.

4 EXISTING TRAFFIC ENVIRONMENT/AREA CONDITIONS

4.1 Existing Transportation System

Roadway Characteristics

Regional access to the project site is provided by the Corona del Mar Freeway/San Joaquin Hills Transportation Corridor (SR-73), located less than one mile to the south of the project area, and by I-405, located approximately 1.5 miles north of the project area. The proposed development would take access to the surrounding street system via connections to Von Karman Avenue and to Birch Street.

Michelson Drive is a four-lane divided east-west arterial in the City of Irvine, located approximately one-third mile south of I-405. Michelson Drive is divided by a painted median and has a posted speed limit of 40 miles per hour (mph) west of Jamboree Road and 45 mph east of Jamboree Road. East of Dupont Drive, Class II bike lanes are provided on both sides of the roadway. Michelson Drive is designated as a Commuter Highway in the City of Irvine Master Plan of Arterial Highways.

Campus Drive is a six-lane divided arterial that extends north-south between Bristol Street and MacArthur Boulevard, then turns and extends as a four-lane undivided arterial in an east-west orientation between MacArthur Boulevard and Carlson Avenue, then two-lane undivided between Carlson Avenue and University Drive. Class II bike lanes are provided on both sides of Campus Drive. The posted speed limit on Campus Drive ranges from 45 mph to 50 mph within the study area. Campus Drive is designated on the City of Newport Beach Circulation Element as a Major Arterial between Bristol Street and MacArthur Boulevard, and as a Secondary Arterial between MacArthur Boulevard and University Drive.

Birch Street is a four-lane undivided roadway, designated as a Secondary Arterial on the City of Newport Beach Circulation Element. Birch Street extends in a north-south direction from south of SR-73 to MacArthur Boulevard, and then turns and extends in an east-west direction from MacArthur Boulevard to Jamboree Road. Birch Street is divided by a painted median, and on-street parking is prohibited in the vicinity of the Project. The posted speed limit is 45 mph.

Fairchild Road is a four-lane collector in the City of Irvine that extends in a northwest-to-southeast arc from Jamboree Road to MacArthur Boulevard. Fairchild Road is divided by a painted median. The speed limit is 45 mph.

MacArthur Boulevard is a six- to eight-lane divided arterial that extends through the cities of Newport Beach and Irvine. MacArthur Boulevard is divided by a raised or painted median and has a posted speed limit of 55 mph south of Campus Drive and 45 mph north of Campus Drive. MacArthur Boulevard is classified as a Major Arterial in both cities' Circulation Elements.

Bristol Street North is part of the Bristol Street couplet that runs along either side of SR-73. Bristol Street North is a three- to four-lane one-way arterial that extends from Jamboree Road in a northwest direction north of and parallel to SR-73. It crosses over SR-73 and connects with Bristol Street at Santa Ana Avenue/Redhill Avenue. Bristol Street is classified as a Primary Arterial on the City of Newport Beach Circulation Element. The posted speed limit is 45 mph. Bristol Street North provides a Class II bike lane.

Bristol Street South is the southbound portion of the Bristol Street couplet. Bristol Street South is a four-lane one-way Primary Arterial that extends from Santa Ana Avenue/Redhill Avenue to Jamboree Road in a southeast direction south of and parallel to SR-73. The posted speed limit is 45 mph. Bristol Street South provides a Class II bike lane.

Von Karman Avenue is a four-lane north-south Primary Arterial that starts at MacArthur Boulevard in the City of Newport Beach, and extends northward into the City of Irvine. Von Karman Avenue is divided by a painted median and has a posted speed limit of 40 to 45 mph. Von Karman Avenue is classified as a Primary on the City of Newport Beach Circulation Element. On the City of Irvine Circulation Element, Von Karman Avenue is classified as a Secondary Highway between Campus Drive and Michelson Drive and as a Major Highway north of Michelson Drive.

Jamboree Road is a six- to eight-lane divided arterial that extends through both Irvine and Newport Beach in a north-south direction. Within the Newport Beach city limits, Jamboree Road is mainly a six-lane divided arterial with three lanes in each direction, except for the segment between Birch Street and Fairchild Road, where there are four southbound travel lanes. Jamboree Road transitions into a seven-lane arterial north of the Newport Beach city limits. Jamboree Road is divided by a raised landscaped median and has a posted speed limit of 55 mph south of Campus Drive and 50 mph north of Campus Drive. Jamboree Road is classified as a Major Arterial in both cities' Circulation Elements. Class II bike lanes are provided on both sides of Jamboree Road.

University Drive is a four-lane to six-lane divided arterial. University Drive extends eastward from Jamboree Road in the City of Newport Beach across the SR-73 into the City of Irvine, and through UCI) University Drive transitions from four to six lanes at the SR-73 southbound ramps. University Drive is divided by a raised landscaped median and has a posted speed limit of 50 mph within the Study Area. University Drive is classified as a Primary Arterial on the City of Newport Beach Circulation Element and a Major Arterial on the City of Irvine Circulation Element. Class II bike lanes are provided on both sides of University Drive.

Existing Transit Service

Transit service in the vicinity of the project site is provided by the Orange County Transportation Authority (OCTA) bus lines. The bus routes currently operated by OCTA through the study area in the cities of Newport Beach and Irvine are shown on **Figure 5**. The following OCTA routes serve the project site and vicinity.

OCTA Route 59 operates between the cities of Anaheim and Irvine via Kraemer Boulevard/Glassell Street/ Grand Avenue and Von Karman Avenue. The Route 59 stop closest to the project site is east of Campus Drive and University Avenue. Route 59 operates in full-route mode on weekdays from 5:50 AM to 10:30 PM with 50- to 60-minute headways (the time interval between bus arrivals). On Saturdays, Route 59 does not offer service to UCI; it only operates to Pullman Street and Dyer Road from approximately 5:50 AM to 9:20 PM with 50- to 60-minute headways. Route 59 does not operate on Sundays.

OCTA Route 76 operates between the cities of Huntington Beach and Newport Beach via Talbert Avenue/ MacArthur Boulevard. The Route 76 stop closest to the project site is at the corner of Michelson Drive and Dupont Drive. Route 76 operates on weekdays, from approximately 6:00 AM to 7:00 PM, with 1-hour headways. Route 76 does not operate on weekends.

OCTA Route 79 operates between the cities of Tustin and Newport Beach via Bryan Avenue/ Culver Drive/ University Avenue. The Route 79 stop closest to the project site is at the corner of Michelson Drive and Culver Drive. Route 79 operates every day from 6:10 AM to 9:00 PM with 1-hour headways.

OCTA Route 167 operates between the cities of Orange and Irvine via Hewes Street/ Irvine Boulevard/ Jeffrey Road. The Route 167 stop closest to the project site is at the corner of University Drive and Harvard Avenue. Route 167 operates weekdays from approximately 5:15 AM to 9:25 PM with 1-hour headways. Route 167 does not operate on weekends.

OCTA Route 178 operates between the cities of Huntington Beach and Irvine via Adams Avenue, Birch Street, and Campus Drive. The Route 178 stop closest to the project site is located at the corner of Birch Avenue and Von Karman Avenue. Route 178 operates on weekdays from 5:10 AM to 9:50 PM with approximately 1-hour headways. Route 178 does not operate on weekends.

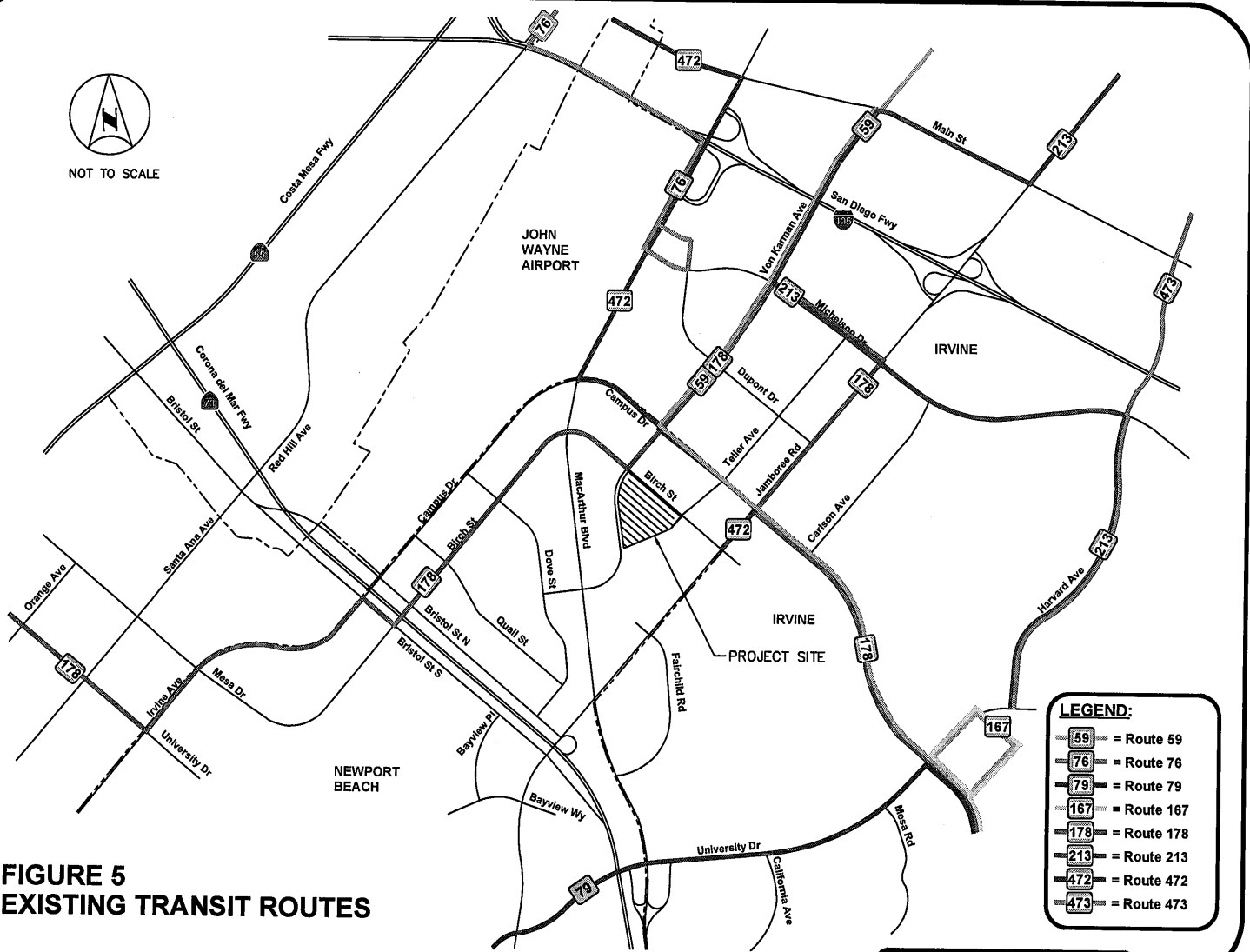
OCTA Route 213 operates between the cities of Brea and Irvine via SR-55. The Route 213 stop closest to the project site is located at the corner of Michelson Drive at Riparian View. Route 213 operates on weekdays from 5:30 AM to 7:00 PM with 30-minute headways. Route 213 does not operate on weekends.

OCTA Route 472 operates between the cities of Tustin and Irvine via Edinger Avenue, Red Hill Avenue, Campus Drive and Jamboree Road. The Route 472 stop closest to the project site is located at the corner of Jamboree Road and Birch Street. Route 472 operates on weekdays from 6:10 AM to 9:10 PM with 30-minute to 1-hour headways. Route 472 does not operate on weekends.

OCTA Route 473 operates between the cities of Tustin and Irvine via Edinger Avenue/ Harvard Avenue. The Route 473 stop closest to the project site is located at the corner of Harvard Avenue and Bridge Avenue. Route 473 operates on weekdays from approximately 6:10 AM to 9:20 PM with 20- to 30-minute headways. Route 473 does not operate on weekends.



NOT TO SCALE



**FIGURE 5
EXISTING TRANSIT ROUTES**

LEGEND:

	= Route 59
	= Route 76
	= Route 79
	= Route 167
	= Route 178
	= Route 213
	= Route 472
	= Route 473



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5 EXISTING TRAFFIC CONDITIONS

5.1 Existing Traffic Volumes

Field observations of all study intersections were conducted to document the number of through and turning lanes, traffic control, and other existing traffic conditions at each intersection. Existing lane configurations and intersection traffic control at the study intersections are shown on **Figure 6**.

Existing morning and evening peak hour intersection turning movement counts were provided by the cities of Newport Beach and Irvine. Intersection counts that were not provided by either city were collected in either 2018 or 2019. The traffic counts provided by the cities of Newport Beach and Irvine were conducted between 2017 and 2019. For City of Newport Beach intersections, traffic counts older than one year have been grown at 1 percent per year on certain major roadways, per direction from City staff, to grow the counts to Year 2020. For City of Irvine intersections, traffic counts were grown at 2 percent per year, based on direction from City staff, to grow the counts to Year 2020. The resulting peak hour turning movement volumes are shown on **Figure 7**. Copies of peak hour traffic data collection sheets are provided in Appendix A.

5.2 Existing Intersection Analysis

Peak hour intersection analysis was conducted for the signalized study intersections using the applicable intersection analysis methodology and parameters for each city, as discussed previously in this report. Unsignalized intersections were analyzed using the HCM methodology for unsignalized intersections.

Existing AM and PM peak hour intersection operations are summarized on **Table 1**. All study intersections are currently operating at an acceptable Level of Service (LOS D for all intersections, except LOS E for intersections in the Airport Area or the IBC area, and CMP intersections). Intersection Level of Service worksheets are provided in Appendix B.

Int. #	Intersection	Traffic Control	AM Peak Hour		PM Peak Hour	
			ICU/Delay	LOS	ICU/Delay	LOS
1	MacArthur Blvd at Campus Dr*	S	0.50	A	0.82	D
2	MacArthur Blvd at Birch St	S	0.34	A	0.52	A
3	MacArthur Blvd at Von Karman Ave	S	0.55	A	0.52	A
4	MacArthur Blvd at Jamboree Rd*	S	0.58	A	0.67	B
5	Von Karman Ave at Michelson Dr*	S	0.54	A	0.68	B
6	Von Karman Ave at Campus Dr*	S	0.52	A	0.70	B
7	Von Karman Ave at Birch St	S	0.32	A	0.42	A
8	Teller Ave at Birch St	U	12.2	B	13.5	B
9	Jamboree Rd at I-405 NB Ramps*	S	0.76	C	0.85	D
10	Jamboree Rd at I-405 SB Ramps*	S	0.96	E	0.95	E
11	Jamboree Rd at Michelson Dr*	S	0.63	B	0.88	D
12	Jamboree Rd at Campus Dr*	S	0.62	B	0.63	B

Table 1: Summary of Intersection Operation Existing Conditions

Int. #	Intersection	Traffic Control	AM Peak Hour		PM Peak Hour	
			ICU/Delay	LOS	ICU/Delay	LOS
13	Jamboree Rd at Birch St*	S	0.52	A	0.53	A
14	Jamboree Rd at Fairchild Dr*	S	0.57	A	0.69	B
15	Jamboree Rd at Bristol St N	S	0.37	A	0.46	A
16	Jamboree Rd at Bristol St S	S	0.67	B	0.62	B
17	Jamboree Rd at Bayview Way	S	0.43	A	0.44	A
18	Jamboree Rd at University Dr	S	0.62	B	0.53	A
19	University Dr at Campus Dr ¹	S	0.79	C	0.79	C
20	Bristol St N at Campus Dr	S	0.54	A	0.68	B
21	Bristol St S at Irvine Ave/Campus Dr	S	0.68	B	0.52	A
22	Irvine Ave at Mesa Dr	S	0.48	A	0.64	B
23	Birch St at Bristol St N	S	0.64	B	0.55	A
24	Birch St at Bristol St S	S	0.48	A	0.48	A
25	Bayview Pl at Bristol St S	S	0.51	A	0.50	A

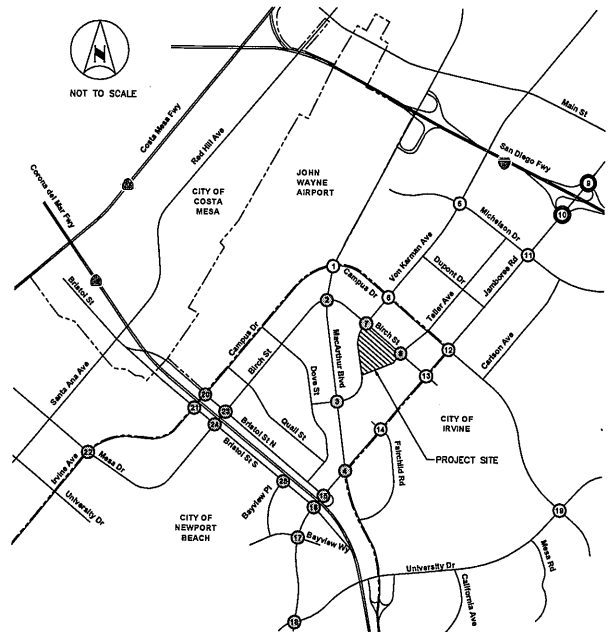
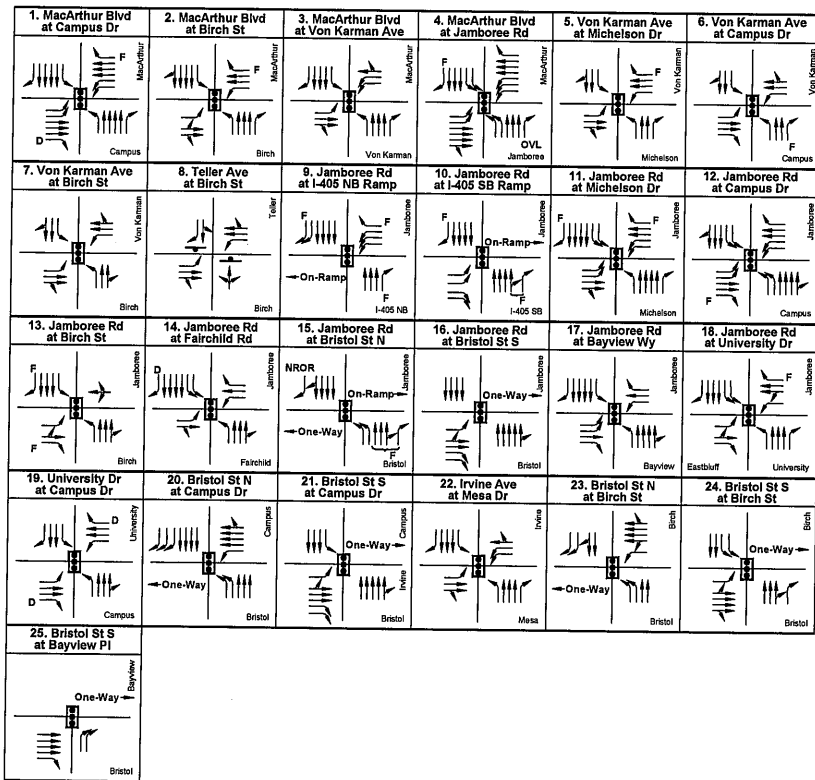
S = Signalized; U = Unsignalized; ICU = Intersection Capacity Utilization; LOS = Level of Service

Bold and shaded values indicate intersections operating at LOS E or F per City standards.

For signalized intersections, intersection operation is expressed in volume-to-capacity (V/C) ratio using the ICU methodology. For unsignalized intersections, LOS is expressed in average seconds of delay per peak hour vehicle, based on the methodology outlined in the 2010 Highway Capacity Manual.

* Level of Service E is acceptable at this intersection.

¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)



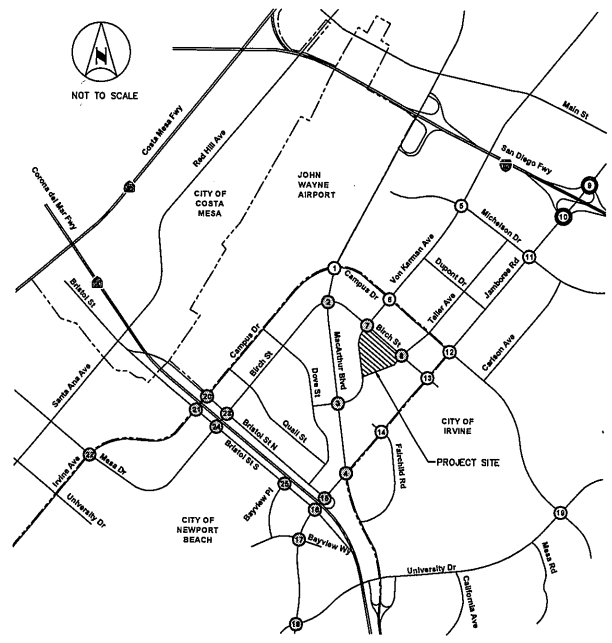
- LEGEND:**
- (X) Newport Beach Intersection
 - (X) Irvine Intersection
 - (X) Caltrans Intersection
 - - - City Boundary
 - F Free Movement
 - OVL Right-Turn Overlap
 - D Defacto Right-Turn Lane
 - NROR No Right-Turn On Red
 - [Signal Symbol] Signal
 - Stop Sign

FIGURE 6
EXISTING LANE CONFIGURATION AND TRAFFIC CONTROL



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<p>1. MacArthur Blvd at Campus Dr</p>	<p>2. MacArthur Blvd at Birch St</p>	<p>3. MacArthur Blvd at Von Karman Ave</p>	<p>4. MacArthur Blvd at Jamboree Rd</p>	<p>5. Von Karman Ave at Michelson Dr</p>	<p>6. Von Karman Ave at Campus Dr</p>
<p>7. Von Karman Ave at Birch St</p>	<p>8. Teller Ave at Birch St</p>	<p>9. Jamboree Rd at I-405 NB Ramp</p>	<p>10. Jamboree Rd at I-405 SB Ramp</p>	<p>11. Jamboree Rd at Michelson Dr</p>	<p>12. Jamboree Rd at Campus Dr</p>
<p>13. Jamboree Rd at Birch St</p>	<p>14. Jamboree Rd at Fairchild Rd</p>	<p>15. Jamboree Rd at Bristol St N</p>	<p>16. Jamboree Rd at Bristol St S</p>	<p>17. Jamboree Rd at Bayview Wy</p>	<p>18. Jamboree Rd at University Dr</p>
<p>19. University Dr at Campus Dr</p>	<p>20. Bristol St N at Campus Dr</p>	<p>21. Bristol St S at Campus Dr</p>	<p>22. Irvine Ave at Mesa Dr</p>	<p>23. Bristol St N at Birch St</p>	<p>24. Bristol St S at Birch St</p>
<p>25. Bristol St S at Bayview Pl</p>					



LEGEND:

- Newport Beach Intersection
- Irvine Intersection
- Caltrans Intersection
- City Boundary
- AM/PM Peak Hour Turning Movement Volumes

**FIGURE 7
EXISTING PEAK HOUR TRAFFIC VOLUMES**



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6 PROPOSED PROJECT TRAFFIC

6.1 Project Trip Generation

Trip generation estimates for the proposed Project were developed using the Institute of Transportation Engineers (ITE) Trip Generation Manual (10th Edition) publication. The proposed project components and trip generation estimates for the Residences at 4400 Von Karman are as follows:

- Multifamily Housing (Mid-Rise) (Land Use 221)

Daily, morning peak hour, and evening peak hour trip generation estimates for the proposed Project are shown on **Table 2**. The Project (312 units) would generate approximately 1,697 daily trips, with 112 morning peak hour trips (29 inbound and 83 outbound) and 138 evening peak hour trips (84 inbound and 54 outbound).

The project site is located in traffic analysis zone (TAZ) 1405 of the Newport Beach Traffic Model (NBTM). The City of Newport Beach General Plan Transportation Study (March 2006) includes 128 apartment units. Because the Project proposes 312 multi-family rental units, the Post-2030 General Plan Buildout With Project scenario adds 184 additional multi-family units.

Land Use	ITE Code	Unit	Trip Generation Rates ¹						
			Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise)	221	DU	5.44	0.094	0.266	0.36	0.268	0.172	0.44
Land Use	Quantity	Unit	Trip Generation Estimates						
			Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise) ²	312	DU	1,697	29	83	112	84	54	138
Total Project Trips			1,697	29	83	112	84	54	138

¹ Source: Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition
² Trip generation estimates shown in Table 2 have been used for TPO Analysis Year 2025 With Project and CEQA Analysis Year 2025 With Project analyses. Trip generation for Post-2030 General Plan Buildout With Project is shown on Table 10.

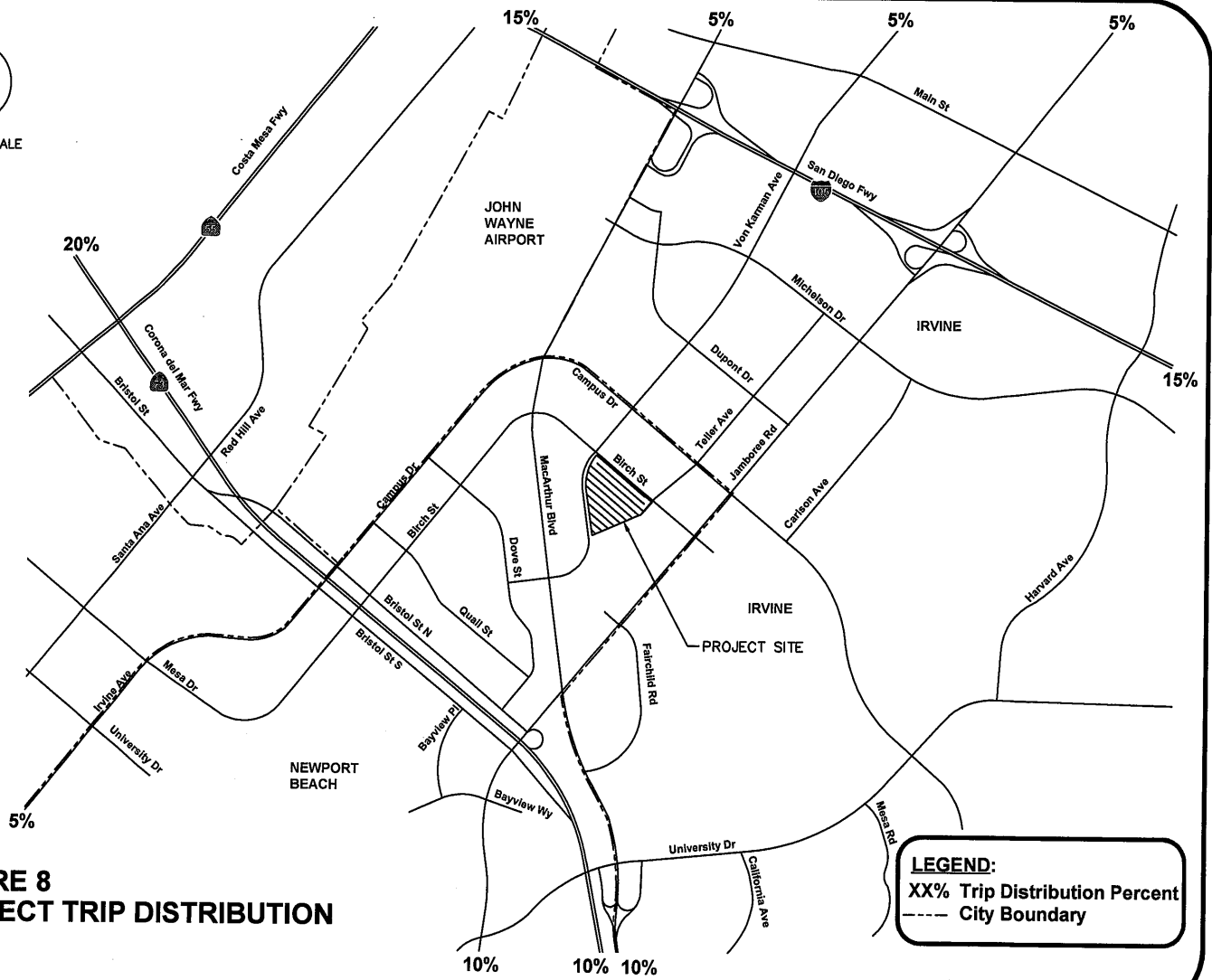
6.2 Project Trip Distribution and Assignment

Project trip distribution assumptions for the project site were developed based on likely origins and destinations of project residents and visitors, and the transportation network available for those trips. Distribution assumptions were submitted to City staff for review and concurrence. Trip distribution assumptions for the Project are shown on **Figure 8**. The resulting project-related traffic volumes at each study intersection are shown on **Figure 9**.

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**FIGURE 8
PROJECT TRIP DISTRIBUTION**

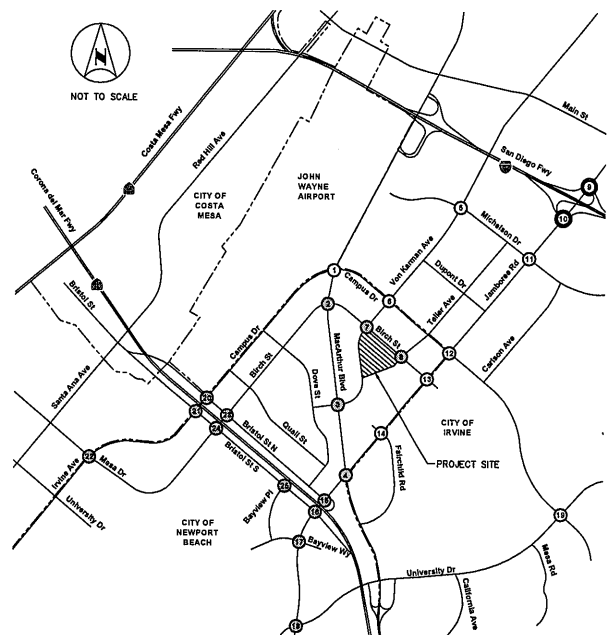
LEGEND:
 XX% Trip Distribution Percent
 --- City Boundary



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1. MacArthur Blvd at Campus Dr	2. MacArthur Blvd at Birch St	3. MacArthur Blvd at Von Karman Ave	4. MacArthur Blvd at Jamboree Rd	5. Von Karman Ave at Michelson Dr	6. Von Karman Ave at Campus Dr
← 4/17 17/11 → Campus	← 8/17 15/11 3/8 → Birch	← 18/12 7/18 → Von Karman	← 1/7 11/7 4/11 3/8 → Jamboree	← 1/4 4/2 → Michelson	← 1/4 4/2 → Campus
7. Von Karman Ave at Birch St	8. Teller Ave at Birch St	9. Jamboree Rd at I-405 NB Ramp	10. Jamboree Rd at I-405 SB Ramp	11. Jamboree Rd at Michelson Dr	12. Jamboree Rd at Campus Dr
← 1/2 13/13 5/15 → Birch	← 1/2 4/13 13/8 → Birch	← 1/4 4/13 → I-405 NB	← 1/7 4/7 → I-405 SB	← 1/7 17/11 → Michelson	← 1/2 3/11 15/8 → Campus
13. Jamboree Rd at Birch St	14. Jamboree Rd at Fairchild Rd	15. Jamboree Rd at Bristol St N	16. Jamboree Rd at Bristol St S	17. Jamboree Rd at Bayview Wy	18. Jamboree Rd at University Dr
← 5/13 18/9 14/9 → Birch	← 14/9 7/20 → Fairchild	← 7/9 8/22 → Bristol	← 8/13 3/8 → Bristol	← 8/5 3/8 → Bayview	← 8/3 3/8 → University
19. University Dr at Campus Dr	20. Bristol St N at Campus Dr	21. Bristol St S at Campus Dr	22. Irvine Ave at Mesa Dr	23. Bristol St N at Birch St	24. Bristol St S at Birch St
← nom nom → Campus	← 3/2 17/11 2/8 → Bristol	← 3/2 1/2 → Bristol	← 3/2 1/2 → Mesa	← 8/5 1/11 1/7 → Birch	← 1/4 1/7 → Birch
25. Bristol St S at Bayview Pl					
5/13 → Bristol					

**FIGURE 9
PROJECT-RELATED PEAK HOUR TRAFFIC VOLUMES**



LEGEND:

- ① Newport Beach Intersection
- ② Irvine Intersection
- ③ Caltrans Intersection
- City Boundary
- XX/YY AM/PM Peak Hour Turning Movement Volumes
- nom Nominal Volume



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7 FUTURE CONDITIONS

The project Opening Year is Year 2024. Per the City's TPO analysis guidelines, the Future Year analysis is one year after Opening Year, therefore Year 2025 was used in the Future Conditions analysis. Near-term future traffic forecasts have been developed for two analysis conditions:

- Future Year with Existing plus Growth plus Committed Projects, representing analysis of the conditions required by the City of Newport Beach Traffic Phasing Ordinance (TPO)
- Future Year with Existing plus Growth plus Committed plus Cumulative Projects, as required by CEQA.

A discussion of each is provided in the following sections.

7.1 Traffic Phasing Ordinance (TPO) Analysis

The City of Newport Beach TPO first requires a determination of whether project trips will increase traffic volumes on any leg of a Primary Intersection by one percent (1%) or more during either the morning or evening peak hour one year after project completion, or that portion of the Project expected to be constructed within five years (sixty months) of project approval, which would be Year 2025. The TPO then requires a Level of Service analysis of the project impact at any Primary Intersection that exceeds the one percent threshold.

For TPO purposes, traffic forecasts for study intersections in the City of Newport Beach are developed by applying an ambient growth rate of one percent per year on primary roadways (Jamboree Road, MacArthur Boulevard and Irvine Avenue), plus traffic from Committed Projects in the vicinity of the project site. For study intersections in the City of Irvine, a growth factor of two percent per year is applied to develop Year 2025 forecasts.

Committed projects consist of projects in the City of Newport Beach that have been approved but are not yet fully constructed and occupied. Committed Projects information was provided by the City of Newport Beach Staff. A copy of the Approved Projects data sheets provided by the City of Newport Beach is included in Appendix C. A summary of the Newport Beach Committed Projects is provided on **Table 3**.

Traffic volumes generated by the Committed Projects in the study area were added to existing peak hour volumes plus ambient growth to develop the TPO Analysis Year 2025 forecast traffic volumes. The resulting peak hour traffic volumes are shown on **Figure 10**.

Project Number	Project Name	Percent Complete
148	Fashion Island Expansion	40%
154	Temple Bat Yahm Expansion	65%
945	Hoag Hospital Phase III	0%
949	St. Mark Presbyterian Church	77%
955	2300 Newport Boulevard	15%
958	Hoag Health Center	95%
959	North Newport Center	0%
962	328 Old Newport Medical	0%
965	Mariner's Pointe	82%
968	Uptown Newport (Phase 2)	0%
969	Uptown Newport (Phase 1)	5%
971	Back Bay Landing 300 E. Coast Highway	0%
974	Newport Executive Center	70%
975	Ebb Tide Residential	20%
976	ENC Nature Pre-school	0%
977	Balboa Marina West	0%
979	Newport Crossings	0%
980	Vivante Senior Center	0%

Source: City of Newport Beach – Traffic Phasing Ordinance Data – Includes approved projects less than 100% complete.

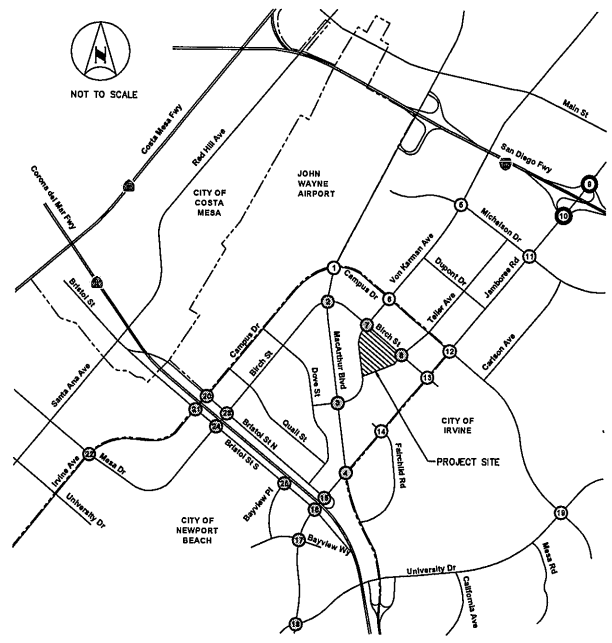
TPO 1% Analysis

In accordance with City of Newport Beach traffic study requirements, the project traffic contribution at the Primary Intersections was evaluated to determine the extent of the Traffic Impact Study required of the Project. The Primary Intersections identified through the 1% Analysis will be evaluated for the LOS Analysis.

For the TPO Analysis, the project-related morning and evening peak hour traffic volumes were compared to the TPO Analysis Year 2025 Without Project peak hour volumes on each leg of each Primary Intersection to determine whether the Project would result in a 1 percent increase. The results of the analysis are summarized on **Table 4**. The 1% Analysis Worksheets for the TPO Analysis are provided in Appendix D. Table 4 shows that the project traffic will exceed 1 percent on at least one approach in one or both peak hours at each of the Newport Beach Primary Intersections, except at the following intersections:

- | | |
|---------------------------------------|--|
| 6. Von Karman Avenue at Campus Drive | 21. Bristol Street South at Irvine Avenue/
Campus Drive |
| 12. Jamboree Road at Campus Drive | 22. Irvine Avenue at Mesa Drive |
| 17. Jamboree Road at Bayview Way | 24. Birch Street at Bristol Street South |
| 18. Jamboree Road at University Drive | 25. Bayview Place at Bristol Street South |

<p>1. MacArthur Blvd at Campus Dr</p>	<p>2. MacArthur Blvd at Birch St</p>	<p>3. MacArthur Blvd at Von Karman Ave</p>	<p>4. MacArthur Blvd at Jamboree Rd</p>	<p>5. Von Karman Ave at Michelson Dr</p>	<p>6. Von Karman Ave at Campus Dr</p>
<p>7. Von Karman Ave at Birch St</p>	<p>8. Teller Ave at Birch St</p>	<p>9. Jamboree Rd at I-405 NB Ramp</p>	<p>10. Jamboree Rd at I-405 SB Ramp</p>	<p>11. Jamboree Rd at Michelson Dr</p>	<p>12. Jamboree Rd at Campus Dr</p>
<p>13. Jamboree Rd at Birch St</p>	<p>14. Jamboree Rd at Falchild Rd</p>	<p>15. Jamboree Rd at Bristol St N</p>	<p>16. Jamboree Rd at Bristol St S</p>	<p>17. Jamboree Rd at Bayview Wy</p>	<p>18. Jamboree Rd at University Dr</p>
<p>19. University Dr at Campus Dr</p>	<p>20. Bristol St N at Campus Dr</p>	<p>21. Bristol St S at Campus Dr</p>	<p>22. Irvine Ave at Mesa Dr</p>	<p>23. Bristol St N at Birch St</p>	<p>24. Bristol St S at Birch St</p>
<p>25. Bristol St S at Bayview Pl</p>					



LEGEND:

- Newport Beach Intersection
- Irvine Intersection
- Caltrans Intersection
- City Boundary
- AM/PM Peak Hour Turning Movement Volumes

FIGURE 10
TPO ANALYSIS YEAR 2025 WITHOUT PROJECT PEAK HOUR TRAFFIC VOLUMES



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The analysis will proceed with a TPO Traffic Impact Study at the remaining Newport Beach Primary Intersections. It should be noted that the 1% Analysis was not conducted for the study intersections entirely in the City of Irvine because the TPO requirement only applies to the City of Newport Beach Primary Intersections. All study intersections in the City of Irvine, including study intersections located on the border of Irvine and Newport Beach, have been analyzed for all study scenarios in this report.

Table 4: Summary of 1% TPO Analysis

No.	Intersection	Condition	Northbound Approach		Southbound Approach		Eastbound Approach		Westbound Approach	
			AM	PM	AM	PM	AM	PM	AM	PM
1	MacArthur Blvd/ Campus Dr	1% of projected pk hr volume	9	16	16	20	14	9	3	16
		Project peak hour volume	17	11	6	17	0	0	0	0
		Project traffic less than 1%?	N	Y	Y	Y	Y	Y	Y	Y
2	MacArthur Blvd/ Birch St	1% of projected pk hr volume	8	11	10	12	5	7	2	9
		Project peak hour volume	0	0	6	17	3	8	30	20
		Project traffic less than 1%?	Y	Y	Y	N	Y	N	N	N
3	MacArthur Blvd/ Von Karman Ave	1% of projected pk hr volume	17	12	7	11	1	5	3	8
		Project peak hour volume	7	19	0	0	0	0	19	12
		Project traffic less than 1%?	Y	N	Y	Y	Y	Y	N	N
4	MacArthur Blvd/ Jamboree Rd	1% of projected pk hr volume	17	14	8	21	18	14	17	18
		Project peak hour volume	6	17	18	12	8	22	14	9
		Project traffic less than 1%?	Y	N	N	Y	Y	N	Y	Y
6	Von Karman Ave/ Campus Dr	1% of projected pk hr volume	8	8	7	13	7	8	5	9
		Project peak hour volume	4	3	1	4	0	0	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
12	Jamboree Rd/ Campus Dr	1% of projected pk hr volume	18	20	23	21	4	12	8	9
		Project peak hour volume	15	9	6	17	2	1	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
13	Jamboree Rd/ Birch St	1% of projected pk hr volume	19	19	24	22	2	7	0	2
		Project peak hour volume	7	20	5	15	29	18	0	0
		Project traffic less than 1%?	Y	N	Y	Y	N	N	Y	Y
15	Jamboree Rd/ Bristol St N	1% of projected pk hr volume	34	35	15	19	0	1	0	1
		Project peak hour volume	8	22	15	10	0	0	0	0
		Project traffic less than 1%?	Y	Y	N	Y	Y	Y	Y	Y
16	Jamboree Rd/ Bristol St S	1% of projected pk hr volume	20	21	8	11	32	29	0	0
		Project peak hour volume	3	8	8	5	5	13	0	0
		Project traffic less than 1%?	Y	Y	N	Y	Y	Y	Y	Y
17	Jamboree Rd/ Bayview Wy	1% of projected pk hr volume	19	21	23	22	2	3	1	2
		Project peak hour volume	3	8	8	5	0	0	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
18	Jamboree Rd/ University Dr	1% of projected pk hr volume	17	20	22	22	6	4	5	6
		Project peak hour volume	3	8	8	5	0	0	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y

Table 4: Summary of 1% TPO Analysis

No.	Intersection	Condition	Northbound Approach		Southbound Approach		Eastbound Approach		Westbound Approach	
			AM	PM	AM	PM	AM	PM	AM	PM
20	Bristol St N/ Campus Dr	1% of projected pk hr volume	21	11	5	22	0	0	17	22
		Project peak hour volume	2	6	3	2	0	0	17	11
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	N	Y
21	Bristol St S at Irvine Ave /Campus Dr	1% of projected pk hr volume	15	10	5	13	33	20	0	0
		Project peak hour volume	1	3	3	2	1	3	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
22	Irvine Ave at Mesa Dr	1% of projected pk hr volume	20	9	7	18	5	3	2	8
		Project peak hour volume	2	4	3	2	0	0	1	1
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
23	Birch St at Bristol St N	1% of projected pk hr volume	12	5	2	11	0	0	21	21
		Project peak hour volume	1	1	10	7	0	0	7	5
		Project traffic less than 1%?	Y	Y	N	Y	Y	Y	Y	Y
24	Birch St at Bristol St S	1% of projected pk hr volume	8	5	5	10	22	15	0	0
		Project peak hour volume	1	1	1	1	0	0	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y
25	Bayview Pl at Bristol St S	1% of projected pk hr volume	1	3	0	0	35	26	0	0
		Project peak hour volume	0	0	0	0	5	13	0	0
		Project traffic less than 1%?	Y	Y	Y	Y	Y	Y	Y	Y

TPO Analysis Year 2025 Without Project

Intersection analysis was conducted for the TPO Analysis Year 2025 (Existing plus Growth plus Committed Projects) Without Project peak hour traffic conditions. Intersection worksheets are provided in Appendix B. The results of the intersection analysis are summarized on **Table 5**. Review of the table shows that the following study intersection would operate at an unacceptable Level of Service under TPO Analysis Year 2025 Without Project Conditions:

- 10. Jamboree Road at I-405 SB Ramps: AM – LOS F; PM – LOS F

Table 5: Intersection Operations – TPO Analysis Year 2025 Without Project Conditions

Int.#	Intersection	Traffic Control	AM Peak Hour		PM Peak Hour	
			ICU/Delay	LOS	ICU/Delay	LOS
1	MacArthur Blvd at Campus Dr*	S	0.56	A	0.90	D
2	MacArthur Blvd at Birch St	S	0.37	A	0.55	A
3	MacArthur Blvd at Von Karman Ave	S	0.57	A	0.55	A
4	MacArthur Blvd at Jamboree Rd*	S	0.65	B	0.73	C
5	Von Karman Ave at Michelson Dr*	S	0.59	A	0.74	C
6	Von Karman Ave at Campus Dr*	S	0.59	A	0.77	C
7	Von Karman Ave at Birch St	S	0.32	A	0.42	A
8	Teller Ave at Birch St	U	12.2	B	13.5	B
9	Jamboree Rd at I-405 NB Ramps*	S	0.83	D	0.93	E
10	Jamboree Rd at I-405 SB Ramps*	S	1.07	F	1.04	F
11	Jamboree Rd at Michelson Dr*	S	0.69	B	0.97	E
12	Jamboree Rd at Campus Dr*	S	0.70	B	0.71	C
13	Jamboree Rd at Birch St*	S	0.59	A	0.62	B
14	Jamboree Rd at Fairchild Dr*	S	0.68	B	0.79	C
15	Jamboree Rd at Bristol St N	S	0.42	A	0.51	A
16	Jamboree Rd at Bristol St S	S	0.70	B	0.68	B
19	University Dr at Campus Dr ¹	S	0.88	D	0.86	D
20	Bristol St N at Campus Dr	S	0.56	A	0.69	B
23	Birch St at Bristol St N	S	0.68	B	0.57	A

Notes:

- **Bold values indicate intersections operating at an unacceptable Level of Service**
- Intersection operation is expressed in volume-to-capacity (v/c) ratio for signalized intersections, and average delay for unsignalized intersections.
- Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.
- * Level of Service E is acceptable at this intersection.

¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)

TPO Analysis Year 2025 With Project

In this scenario, project-related peak hour traffic volumes are added to the TPO Analysis Year 2025 Without Project traffic volumes. TPO Analysis Year 2025 With Project peak hour volumes are shown on **Figure 11**. The results of the intersection analysis are summarized on **Table 6**. Review of this table shows that the following study intersection would operate at an unacceptable Level of Service under TPO Analysis Year 2025 with project conditions:

10. Jamboree Road at I-405 SB Ramps: AM – LOS F; PM – LOS F

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Table 6: Intersection Operations – TPO Analysis Year 2025 With Project Conditions

Int. #	Intersection	AM Peak Hour						PM Peak Hour					
		Without Project		With Project		Change	Sig Impact?	Without Project		With Project		Change	Sig Impact?
		ICU/Delay	LOS	ICU/Delay	LOS			ICU/Delay	LOS	ICU/Delay	LOS		
1	MacArthur Blvd at Campus Dr*	0.56	A	0.56	A	0.00	No	0.90	D	0.90	D	0.00	No
2	MacArthur Blvd at Birch St	0.37	A	0.38	A	0.01	No	0.55	A	0.56	A	0.01	No
3	MacArthur Blvd at Von Karman Ave	0.57	A	0.58	A	0.01	No	0.55	A	0.55	A	0.00	No
4	MacArthur Blvd at Jamboree Rd*	0.65	B	0.66	B	0.01	No	0.73	C	0.74	C	0.01	No
5	Von Karman Ave at Michelson Dr*	0.59	A	0.60	A	0.01	No	0.74	C	0.75	C	0.01	No
6	Von Karman Ave at Campus Dr*	0.59	A	0.59	A	0.00	No	0.77	C	0.78	C	0.01	No
7	Von Karman Ave at Birch St	0.32	A	0.33	A	0.01	No	0.42	A	0.43	A	0.01	No
8	Teller Ave at Birch St (unsignalized)	12.2	B	12.7	B	0.5	No	13.5	B	14.8	B	1.3	No
9	Jamboree Rd at I-405 NB Ramps*	0.83	D	0.83	D	0.00	No	0.93	E	0.93	E	0.00	No
10	Jamboree Rd at I-405 SB Ramps*	1.07	F	1.07	F	0.00	No	1.04	F	1.04	F	0.00	No
11	Jamboree Rd at Michelson Dr*	0.69	B	0.69	B	0.00	No	0.97	E	0.97	E	0.00	No
12	Jamboree Rd at Campus Dr*	0.70	B	0.70	B	0.00	No	0.71	C	0.71	C	0.00	No
13	Jamboree Rd at Birch St*	0.59	A	0.60	A	0.01	No	0.62	B	0.64	B	0.02	No
14	Jamboree Rd at Fairchild Dr*	0.68	B	0.68	B	0.00	No	0.79	C	0.79	C	0.00	No
15	Jamboree Rd at Bristol St N	0.42	A	0.42	A	0.00	No	0.51	A	0.52	A	0.01	No
16	Jamboree Rd at Bristol St S	0.70	B	0.70	B	0.00	No	0.68	B	0.69	B	0.01	No
19	University Dr at Campus Dr ¹	0.88	D	0.88	D	0.00	No	0.86	D	0.86	D	0.00	No
20	Bristol St N at Campus Dr	0.56	A	0.57	A	0.01	No	0.69	B	0.69	B	0.00	No
23	Birch St at Bristol St N	0.68	B	0.68	B	0.00	No	0.57	A	0.57	A	0.00	No

Notes:
 - Bold values indicate intersections operating at an unacceptable level of service
 - Intersection operation is expressed in volume-to-capacity (v/c) ratio for signalized intersections, and average delay for unsignalized intersections.
 - Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.
¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)
 * Level of Service E is acceptable at this intersection.

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1. MacArthur Blvd at Campus Dr 	2. MacArthur Blvd at Birch St 	3. MacArthur Blvd at Von Karman Ave 	4. MacArthur Blvd at Jamboree Rd 	5. Von Karman Ave at Michelson Dr 	6. Von Karman Ave at Campus Dr
7. Von Karman Ave at Birch St 	8. Teller Ave at Birch St 	9. Jamboree Rd at I-405 NB Ramp 	10. Jamboree Rd at I-405 SB Ramp 	11. Jamboree Rd at Michelson Dr 	12. Jamboree Rd at Campus Dr
13. Jamboree Rd at Birch St 	14. Jamboree Rd at Fairchild Rd 	15. Jamboree Rd at Bristol St N 	16. Jamboree Rd at Bristol St S 	17. Jamboree Rd at Bayview Wy 	18. Jamboree Rd at University Dr
19. University Dr at Campus Dr 	20. Bristol St N at Campus Dr 	21. Bristol St S at Campus Dr 	22. Irvine Ave at Mesa Dr 	23. Bristol St N at Birch St 	24. Bristol St S at Birch St
25. Bristol St S at Bayview Pl 					

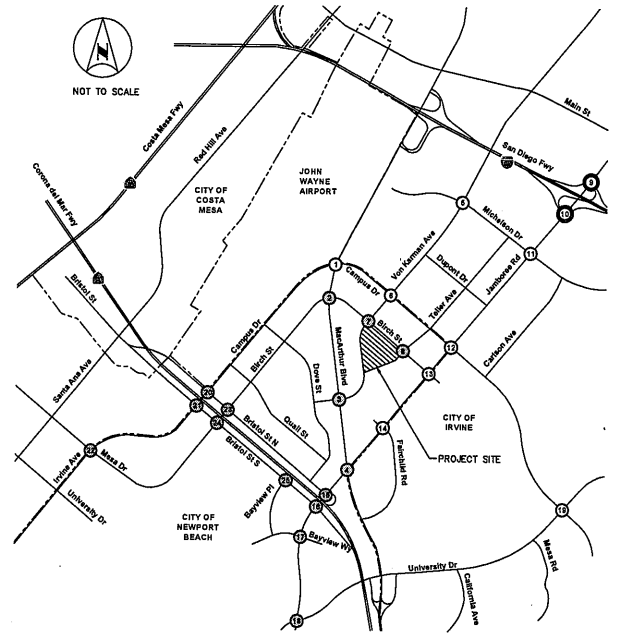


FIGURE 11
TPO ANALYSIS YEAR 2025 WITH PROJECT PEAK HOUR TRAFFIC VOLUMES



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7.2 CEQA Analysis

CEQA requires that a Cumulative Conditions analysis be conducted. The Cumulative Conditions analysis includes traffic from Cumulative Projects in the vicinity of the project site.

Cumulative Projects consist of the Committed Projects (approved projects in the City of Newport Beach), as well as other projects that are in various stages of the application and approval process but have not yet been approved. These projects are considered to be “reasonably foreseeable” projects and must therefore be analyzed for CEQA purposes. The Cumulative Projects list includes the projects identified by the City of Newport Beach as Committed Projects, plus pending projects in the City of Newport Beach, as well as approved and pending projects in the City of Irvine. A summary of Cumulative Projects is provided on **Table 7**. The location of the Cumulative Projects in relation to the project site is shown on **Figure 12**. Cumulative Projects information and data provided by the City of Newport Beach and the City of Irvine are provided in Appendix C.

The CEQA Cumulative Conditions analysis was conducted for the following scenarios:

- CEQA Analysis Year 2025 Without Project
- CEQA Analysis Year 2025 With Project

Future Year Cumulative Conditions peak hour traffic volumes for the City of Newport Beach intersections were developed by adding an ambient growth rate of one percent per year to existing volumes on primary roadways and then adding peak hour traffic volumes from both the Committed and Cumulative Projects.

For the City of Irvine intersections, City of Irvine transportation planning staff provided peak hour traffic forecasts from the Irvine Traffic Analysis Model (ITAM) which is maintained and operated by the City of Irvine. The ITAM forecasts include the effects of ambient traffic growth and traffic from Cumulative Projects; the ITAM forecasts are in Appendix C. ITAM forecasts represent year 2023 traffic volumes; therefore, City of Irvine staff recommended applying a growth factor of 2 percent per year to develop Year 2025 forecasts. The westbound approach at the intersection of Jamboree Road at Birch Street will be widened to one left-turn lane, one shared left-through lane, and a dedicated right-turn lane to account for the traffic generated by the UCI North Campus Child Health. The modified westbound approach was a recommended improvement in the UCI North Campus Child Health Traffic Study.

CEQA Analysis Year 2025 Without Project

CEQA Analysis Year 2025 Without Project peak hour traffic volumes for all study intersections are shown on **Figure 13**. CEQA Analysis Year 2025 Without Project intersection operations are summarized in **Table 8**. All study intersections are forecasted to operate at an acceptable Level of Service in both peak hours with the exception of the following:

10. Jamboree Road at I-405 SB Ramps: AM – LOS F; PM – LOS F
11. Jamboree Road at Michelson Drive: PM – LOS F

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Table 7: Summary of Cumulative Projects

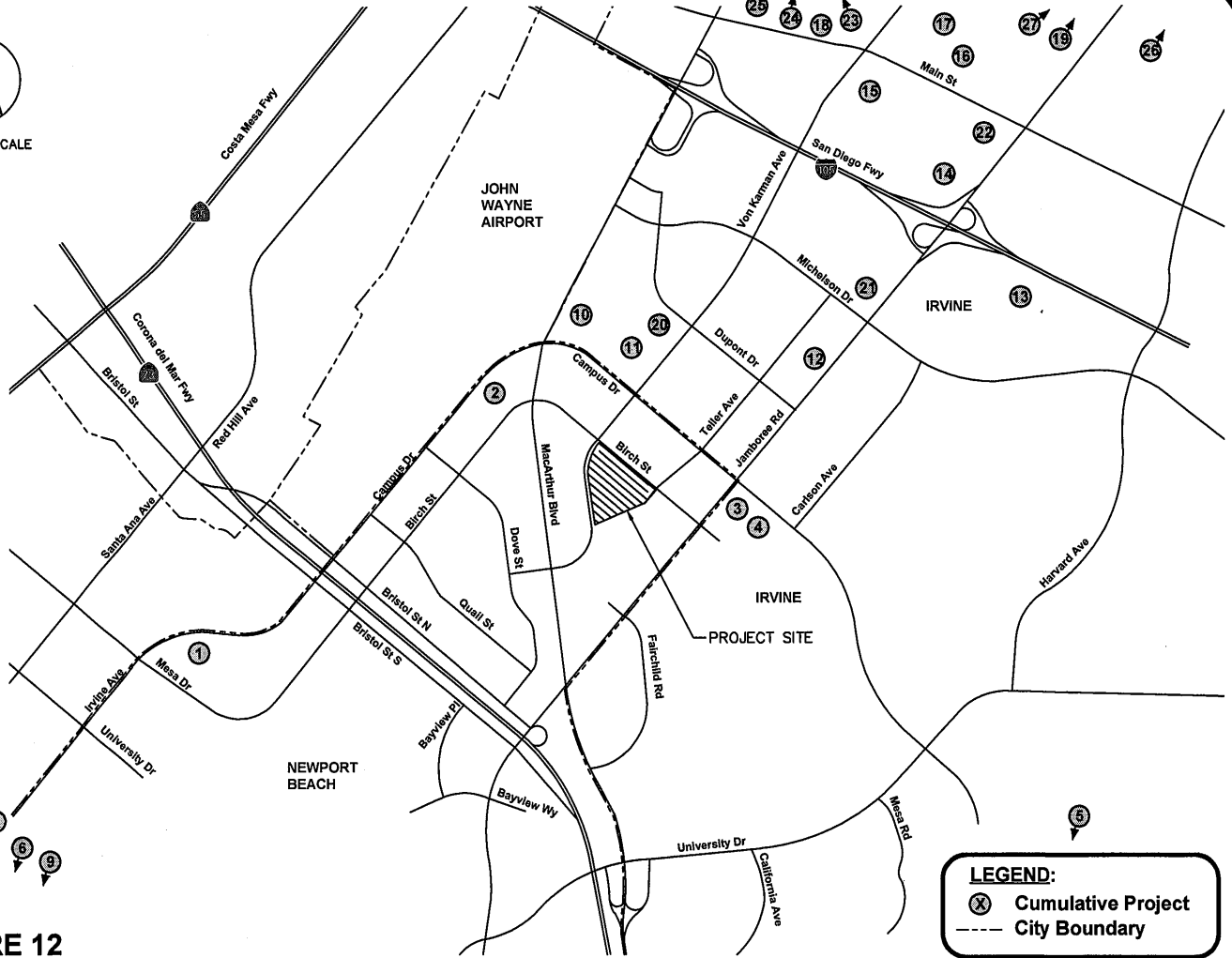
Proj #	Description	Land Use	Qty	Units	Trip Generation Estimates						
					Daily	AM Peak Hour			PM Peak Hour		
						In	Out	Total	In	Out	Total
City of Newport Beach											
1	Drive Shack	Golf Driving Range	102	Driving Position	1,392	25	16	41	57	70	127
2	Newport Airport Village	Multi-family Housing (Mid-Rise)	329	DU	1,790	31	88	119	88	57	145
3	UCI North Campus Hospital	Hospital (City of Irvine)	350.000	KSF	3,752	212	100	312	109	231	340
4	UCI North Campus Child Health	Medical-Dental Office Building (City of Irvine)	168.000	KSF	5,846	364	103	467	163	418	581
5	Newport Coast	Mixed Residential	1,518	DU	14,778	413	932	1,345	926	557	1,483
6	Westcliff Restaurant	Fast-Food Restaurant w/out drive-through	11.953	KSF	4,002	180	120	300	101	102	203
7	Garden Restaurant	Quality Restaurant	10.987	KSF	971	6	2	8	55	29	84
8	Newport Village	Mixed Use	N/A	N/A	2,832	139	69	207	102	148	251
9	Bayside Family Resort Hotel	Hotel	275	Room	1,796	64	49	113	67	67	134
City of Irvine											
10	Landmark	Hotel	386	Room	3,227	107	74	181	118	113	231
		General Office Building	448.000	KSF	4,364	447	73	520	82	433	515
11	Trilogy Residential	Multi-family Housing (Mid-Rise)	876	DU	4,765	82	233	315	235	151	386
12	Banc & Office Hotel	Hotel	225	Room	1,881	62	43	105	69	66	135
		General Office Building	150.000	KSF	1,461	150	24	174	28	145	173
13	Park Place Office Building	General Office Building	199.000	KSF	1,938	199	32	231	37	192	229
14	Towneplace Hotel	Business Hotel	165	Occupied Room	838	49	43	92	41	33	74
15	17850 Von Karman	General Office Building	240.856	KSF	2,346	240	39	279	44	233	277
16	15 Degrees South	Multi-family Housing (Mid-Rise)	150	DU	816	14	40	54	40	26	66
17	2525 Main Street	Multi-family Housing (Mid-Rise)	272	DU	1,480	26	72	98	73	47	120
18	2055 Main Street	Multi-family Housing (Mid-Rise)	178	DU	968	17	47	64	48	31	79
19	Pistoia Apartments	Multi-family Housing (Mid-Rise)	371	DU	2,018	35	99	134	99	64	163
20	Milani Apartments	Multi-family Housing (Mid-Rise)	287	DU	1,561	27	76	103	77	49	126
21	Central Park West	Multi-family Housing (Mid-Rise)	1,560	DU	8,486	147	415	562	418	268	686
		Shopping Center	10.016	KSF	378	6	4	10	18	20	38
22	Main & Jamboree	Multi-family Housing (Mid-Rise)	288	DU	1,567	27	77	104	77	50	127
23	17821 Gillette	Multi-family Housing (Mid-Rise)	39	DU	212	4	10	14	10	7	17

Table 7: Summary of Cumulative Projects

Proj #	Description	Land Use	Qty	Units	Trip Generation Estimates						
					Daily	AM Peak Hour			PM Peak Hour		
						In	Out	Total	In	Out	Total
24	17811 Gillette	Multi-family Housing (Mid-Rise)	44	DU	239	4	12	16	12	8	20
25	17822 Gillette	Multi-family Housing (Mid-Rise)	137	DU	745	13	36	49	37	24	61
26	360 Fusion	Multi-family Housing (Mid-Rise)	280	DU	1,523	26	74	100	75	48	123
27	2602 McGaw	Multi-family Housing (Mid-Rise)	120	DU	653	11	32	43	32	21	53
Total Project Trips					78,625	3,127	3,034	6,160	3,338	3,708	7,047
DU = Dwelling Unit, KSF = 1,000 square feet,											



NOT TO SCALE



LEGEND:

- (X) Cumulative Project
- City Boundary

FIGURE 12
LOCATION OF CUMULATIVE PROJECTS



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<p>1. MacArthur Blvd at Campus Dr</p>	<p>2. MacArthur Blvd at Birch St</p>	<p>3. MacArthur Blvd at Von Karman Ave</p>	<p>4. MacArthur Blvd at Jamboree Rd</p>	<p>5. Von Karman Ave at Michelson Dr</p>	<p>6. Von Karman Ave at Campus Dr</p>
<p>7. Von Karman Ave at Birch St</p>	<p>8. Teller Ave at Birch St</p>	<p>9. Jamboree Rd at I-405 NB Ramp</p>	<p>10. Jamboree Rd at I-405 SB Ramp</p>	<p>11. Jamboree Rd at Michelson Dr</p>	<p>12. Jamboree Rd at Campus Dr</p>
<p>13. Jamboree Rd at Birch St</p>	<p>14. Jamboree Rd at Fairchild Rd</p>	<p>15. Jamboree Rd at Bristol St N</p>	<p>16. Jamboree Rd at Bristol St S</p>	<p>17. Jamboree Rd at Bayview Wy</p>	<p>18. Jamboree Rd at University Dr</p>
<p>19. University Dr at Campus Dr</p>	<p>20. Bristol St N at Campus Dr</p>	<p>21. Bristol St S at Campus Dr</p>	<p>22. Irvine Ave at Mesa Dr</p>	<p>23. Bristol St N at Birch St</p>	<p>24. Bristol St S at Birch St</p>
<p>25. Bristol St S at Bayview Pl</p>					

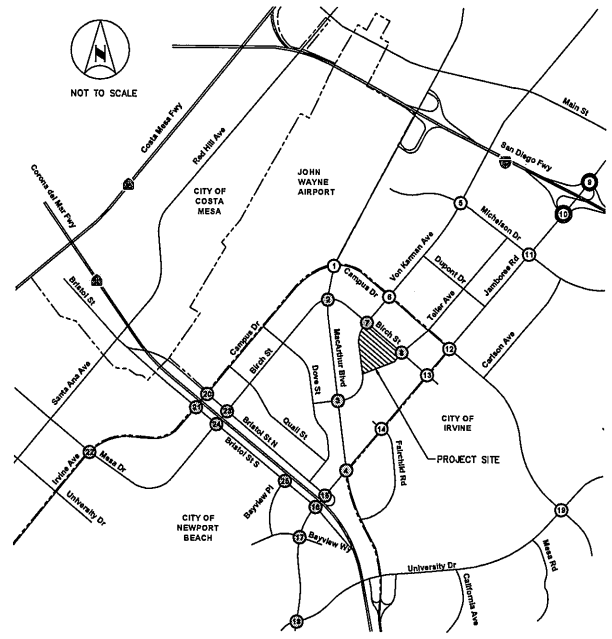


FIGURE 13
CEQA ANALYSIS YEAR 2025 WITHOUT PROJECT PEAK HOUR TRAFFIC VOLUMES

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Int. #	Intersection	AM Peak Hour		PM Peak Hour	
		ICU/Delay	LOS	ICU/Delay	LOS
1	MacArthur Blvd at Campus Dr*	0.667	B	0.959	E
2	MacArthur Blvd at Birch St	0.401	A	0.583	A
3	MacArthur Blvd at Von Karman Ave	0.572	A	0.572	A
4	MacArthur Blvd at Jamboree Rd*	0.723	C	0.837	D
5	Von Karman Ave at Michelson Dr*	0.676	B	0.785	C
6	Von Karman Ave at Campus Dr*	0.740	C	0.860	D
7	Von Karman Ave at Birch St	0.337	A	0.435	A
8	Teller Ave at Birch St (unsignalized)	12.5	B	14.2	B
9	Jamboree Rd at I-405 NB Ramps*	0.828	D	0.922	E
10	Jamboree Rd at I-405 SB Ramps*	1.060	F	1.013	F
11	Jamboree Rd at Michelson Dr*	0.823	D	1.050	F
12	Jamboree Rd at Campus Dr*	0.808	D	0.811	D
13	Jamboree Rd at Birch St*	0.728	C	0.899	D
14	Jamboree Rd at Fairchild Dr*	0.776	C	0.548	A
15	Jamboree Rd at Bristol St N	0.440	A	0.590	A
16	Jamboree Rd at Bristol St S	0.734	C	0.715	C
17	Jamboree Rd at Bayview Way	0.473	A	0.491	A
18	Jamboree Rd at University Dr	0.675	B	0.601	B
19	University Dr at Campus Dr ¹	0.871	D	0.853	D
20	Bristol St N at Campus Dr	0.581	A	0.737	C
21	Bristol St S at Irvine Ave / Campus Dr	0.691	B	0.560	A
22	Irvine Ave at Mesa Dr	0.507	A	0.669	B
23	Birch St at Bristol St N	0.694	B	0.632	B
24	Birch St at Bristol St S	0.496	A	0.507	A
25	Bayview Pl at Bristol St S	0.551	A	0.539	A

Note:
 - **Bold values indicate intersections operating at an unacceptable Level of Service**
 - Intersection operation is expressed in volume-to-capacity (v/c) ratio for signalized intersections, and average delay for unsignalized intersections.
 - Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.
 * Level of Service E is acceptable at this intersection.
¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)

CEQA Analysis Year 2025 With Project

In this scenario, project-related peak hour traffic volumes were added to the CEQA Analysis Year 2025 Without Project traffic volumes. The resulting CEQA Analysis Year 2025 With Project peak hour volumes are shown on **Figure 14**, and the resulting intersection operations are summarized on **Table 9**. The following intersections would continue to operate at a deficient Level of Service under CEQA Analysis Year 2025 With Project conditions:

- 10. Jamboree Road at I-405 SB Ramps: AM – LOS F; PM – LOS F
- 11. Jamboree Road at Michelson Drive: PM – LOS F

Based on the significance criteria set forth in this traffic study, the Project’s incremental increase does not exceed the significance threshold at the deficient intersections and would not result in a significant impact with the addition of project trips. All other intersections would operate at an acceptable Level of Service in both peak hours.

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1. MacArthur Blvd at Campus Dr 	2. MacArthur Blvd at Birch St 	3. MacArthur Blvd at Von Karman Ave 	4. MacArthur Blvd at Jamboree Rd 	5. Von Karman Ave at Michelson Dr 	6. Von Karman Ave at Campus Dr
7. Von Karman Ave at Birch St 	8. Teller Ave at Birch St 	9. Jamboree Rd at I-405 NB Ramp 	10. Jamboree Rd at I-405 SB Ramp 	11. Jamboree Rd at Michelson Dr 	12. Jamboree Rd at Campus Dr
13. Jamboree Rd at Birch St 	14. Jamboree Rd at Fairchild Rd 	15. Jamboree Rd at Bristol St N 	16. Jamboree Rd at Bristol St S 	17. Jamboree Rd at Bayview Wy 	18. Jamboree Rd at University Dr
19. University Dr at Campus Dr 	20. Bristol St N at Campus Dr 	21. Bristol St S at Campus Dr 	22. Irvine Ave at Mesa Dr 	23. Bristol St N at Birch St 	24. Bristol St S at Birch St
25. Bristol St S at Bayview Pl 					

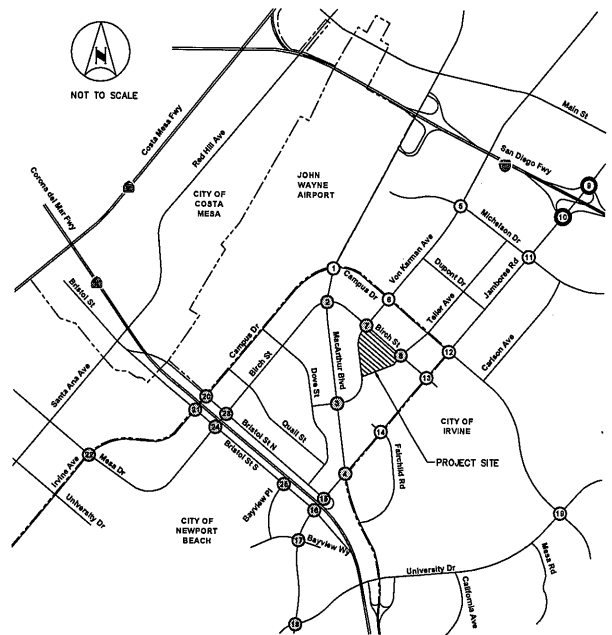


FIGURE 14
CEQA ANALYSIS YEAR 2025 WITH PROJECT PEAK HOUR TRAFFIC VOLUMES

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Table 9: Intersection Operation – CEQA Analysis Year 2025 With Project Conditions

Int. #	Intersection	AM Peak Hour						PM Peak Hour					
		Without Project		With Project		Change Delay	Sig Impact?	Without Project		With Project		Change Delay	Sig Impact?
		ICU/ Delay	LOS	ICU/ Delay	LOS			ICU/ Delay	LOS	ICU/ Delay	LOS		
1	MacArthur Blvd at Campus Dr*	0.667	B	0.669	B	0.002	No	0.959	E	0.961	E	0.002	No
2	MacArthur Blvd at Birch St	0.401	A	0.410	A	0.009	No	0.583	A	0.587	A	0.004	No
3	MacArthur Blvd at Von Karman Ave	0.572	A	0.582	A	0.010	No	0.572	A	0.575	A	0.003	No
4	MacArthur Blvd at Jamboree Rd*	0.723	C	0.725	C	0.002	No	0.837	D	0.842	D	0.005	No
5	Von Karman Ave at Michelson Dr*	0.676	B	0.678	B	0.002	No	0.785	C	0.786	C	0.001	No
6	Von Karman Ave at Campus Dr*	0.740	C	0.741	C	0.001	No	0.860	D	0.861	D	0.001	No
7	Von Karman Ave at Birch St	0.337	A	0.331	A	-0.006	No	0.435	A	0.443	A	0.008	No
8	Teller Ave at Birch St (unsignalized)	12.5	B	13.0	B	0.5	No	14.2	B	15.7	C	1.5	No
9	Jamboree Rd at I-405 NB Ramps*	0.828	D	0.829	D	0.001	No	0.922	E	0.925	E	0.003	No
10	Jamboree Rd at I-405 SB Ramps*	1.060	F	1.061	F	0.001	No	1.013	F	1.014	F	0.001	No
11	Jamboree Rd at Michelson Dr*	0.823	D	0.826	D	0.003	No	1.050	F	1.052	F	0.002	No
12	Jamboree Rd at Campus Dr*	0.808	D	0.809	D	0.001	No	0.811	D	0.814	D	0.003	No
13	Jamboree Rd at Birch St*	0.728	C	0.732	C	0.004	No	0.899	D	0.902	D	0.003	No
14	Jamboree Rd at Fairchild Dr*	0.776	C	0.777	C	0.001	No	0.548	A	0.549	A	0.001	No
15	Jamboree Rd at Bristol St N	0.440	A	0.441	A	0.001	No	0.590	A	0.592	A	0.002	No
16	Jamboree Rd at Bristol St S	0.734	C	0.736	C	0.002	No	0.715	C	0.719	C	0.004	No
17	Jamboree Rd at Bayview Way	0.473	A	0.474	A	0.001	No	0.491	A	0.492	A	0.001	No
18	Jamboree Rd at University Dr	0.675	B	0.677	B	0.002	No	0.601	B	0.603	B	0.002	No
19	University Dr at Campus Dr ¹	0.871	D	0.871	D	0.000	No	0.853	D	0.853	D	0.000	No
20	Bristol St N at Campus Dr	0.581	A	0.585	A	0.004	No	0.737	C	0.738	C	0.001	No
21	Bristol St S at Irvine Ave / Campus Dr	0.691	B	0.691	B	0.000	No	0.560	A	0.560	A	0.000	No
22	Irvine Ave at Mesa Dr	0.507	A	0.508	A	0.001	No	0.669	B	0.669	B	0.000	No
23	Birch St at Bristol St N	0.694	B	0.696	B	0.002	No	0.632	B	0.634	B	0.002	No
24	Birch St at Bristol St S	0.496	A	0.496	A	0.000	No	0.507	A	0.508	A	0.001	No
25	Bayview Pl at Bristol St S	0.551	A	0.552	A	0.001	No	0.539	A	0.541	A	0.002	No

Notes:
 - Bold and shaded values indicate intersections operating at an unacceptable Level of Service
 - Intersection operation is expressed in volume-to-capacity (v/c) ratio for signalized intersections, and average delay for unsignalized intersections.
 - Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.
 * Level of Service E is acceptable at this intersection.
¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)

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8 GENERAL PLAN COMPARISON

A comparison analysis has been conducted to determine whether the proposed Residences at 4400 Von Karman (“Project”) would result in any new or substantially more significant environmental impacts as compared to the conclusions discussed in the City of Newport Beach General Plan Transportation Study (March 2006). The project is located in traffic analysis zone (TAZ) 1405 of the Newport Beach Traffic Model (NBTM), used in the 2006 General Plan traffic analysis. The NBTM TAZ 1405 consists of 128 Apartment units, 128,610 square feet of general commercial and 695,157 square feet of office. The “Residences at 4400 Von Karman” project proposes 312 apartment units. To provide a conservative analysis, the traffic from the additional 184 units (312 units–128 units) were added on to Post-2030 General Plan Buildout traffic to determine 2030 General Plan Buildout With Project traffic. The following study scenarios were analyzed for the comparison analysis:

- Post-2030 General Plan Buildout ¹
- Post-2030 General Plan Buildout With Project ²

¹ This scenario assumes the following quantities for NBTM TAZ 1405, where the project site is located: 128 apartment units, 128,610 square feet of general commercial use, and 695,137 square feet of office use

² This “With Project” scenario assumes an additional 184 dwelling units (delta) to NBTM TAZ 1405, for a total of 312 dwelling units, as proposed by the Project.

The Post-2030 General Plan Buildout With Project ICU was compared with the Post-2030 General Plan Buildout ICU at the following study intersections analyzed in the 2006 General Plan Transportation Study:

- 1 MacArthur Boulevard at Campus Drive
- 2 MacArthur Boulevard at Birch Street
- 3 MacArthur Boulevard at Von Karman Avenue
- 4 MacArthur Boulevard at Jamboree Road
- 6 Von Karman Avenue at Campus Drive
- 12 Jamboree Road at Campus Drive
- 13 Jamboree Road at Birch Street
- 15 Jamboree Road at Bristol Street N
- 16 Jamboree Road at Bristol Street S
- 17 Jamboree Road at Bayview Way
- 18 Jamboree Road at University Drive
- 20 Bristol Street N at Campus Drive
- 21 Bristol Street S at Irvine Avenue / Campus Drive
- 22 Irvine Avenue at Mesa Drive
- 23 Birch Street at Bristol Street N
- 24 Birch Street at Bristol Street S
- 25 Bayview Place at Bristol Street S

(inbound and 32 outbound).

Table 10: Summary of Delta Project Trip Generation

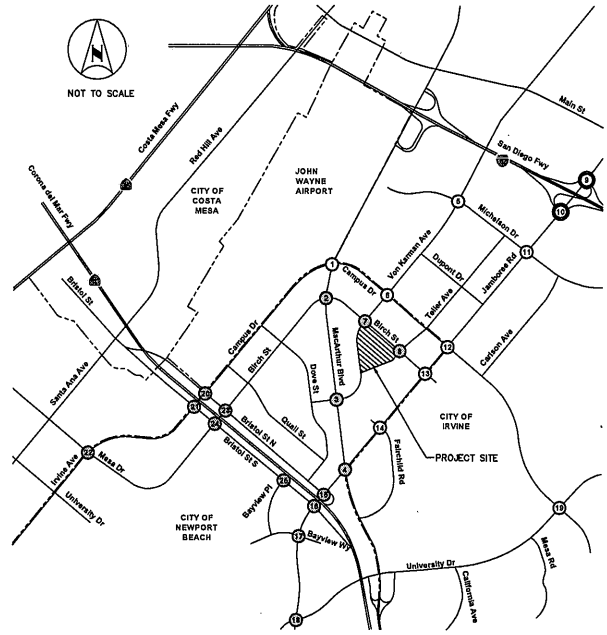
Daily, morning peak hour, and evening peak hour trip generation estimates for the proposed Project are shown on **Table 10**. The Project (184 additional units) would generate approximately 1,001 daily trips, with 66 morning peak hour trips (17 inbound and 49 outbound) and 81 evening peak hour trips (49 inbound and 32 outbound).

Table 10: Summary of Delta Project Trip Generation									
Land Use	ITE Code	Unit	Trip Generation Rates ¹						
			Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise)	221	DU	5.44	0.094	0.266	0.36	0.268	0.172	0.44
Land Use	Quantity	Unit	Trip Generation Estimates						
			Daily	AM Peak Hour			PM Peak Hour		
				In	Out	Total	In	Out	Total
Multifamily Housing (Mid-Rise) ²	184	DU	1,001	17	49	66	49	32	81
Total Delta Project Trips			1,001	17	49	66	49	32	81

¹ Source: Institute of Transportation Engineers (ITE) Trip Generation Manual, 10th Edition
² This "With Project" scenario assumes an additional 184 dwelling units (delta) to NBTM TAZ 1405, for a total of 312 dwelling units, as proposed by the Project.

The Post-2030 General Plan Buildout and Post-2030 General Plan Buildout With Project volumes are shown on **Figure 15** and **Figure 16**, respectively. Excerpts from the 2006 General Plan Transportation Study are provided in Appendix H. The results of the Post-2030 General Plan Buildout Plus Project ICU compared to the Post-2030 General Plan Buildout ICU shown in the General Plan Transportation Study and are shown on **Table 11**. Based on this comparison, the proposed Project would not result in any new traffic related impacts compared to those identified in the 2006 City of Newport Beach General Plan Transportation Study. The proposed Project would not result in a significant Project impact at the study locations; therefore, no mitigation measures at the study locations are required.

<p>1. MacArthur Blvd at Campus Dr</p>	<p>2. MacArthur Blvd at Birch St</p>	<p>3. MacArthur Blvd at Von Karman Ave</p>	<p>4. MacArthur Blvd at Jamboree Rd</p>	<p>5. Von Karman Ave at Michelson Dr</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>6. Von Karman Ave at Campus Dr</p>
<p>7. Von Karman Ave at Birch St</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>8. Teller Ave at Birch St</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>9. Jamboree Rd at I-405 NB Ramp</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>10. Jamboree Rd at I-405 SB Ramp</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>11. Jamboree Rd at Michelson Dr</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>12. Jamboree Rd at Campus Dr</p>
<p>13. Jamboree Rd at Birch St</p>	<p>14. Jamboree Rd at Fairchild Rd</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>15. Jamboree Rd at Bristol St N</p>	<p>16. Jamboree Rd at Bristol St S</p>	<p>17. Jamboree Rd at Bayview Wy</p>	<p>18. Jamboree Rd at University Dr</p>
<p>19. University Dr at Campus Dr</p> <p>NOT ANALYZED FOR THIS SCENARIO</p>	<p>20. Bristol St N at Campus Dr</p>	<p>21. Bristol St S at Campus Dr</p>	<p>22. Irvine Ave at Mesa Dr</p>	<p>23. Bristol St N at Birch St</p>	<p>24. Bristol St S at Birch St</p>
<p>25. Bristol St S at Bayview Pl</p>					



LEGEND:

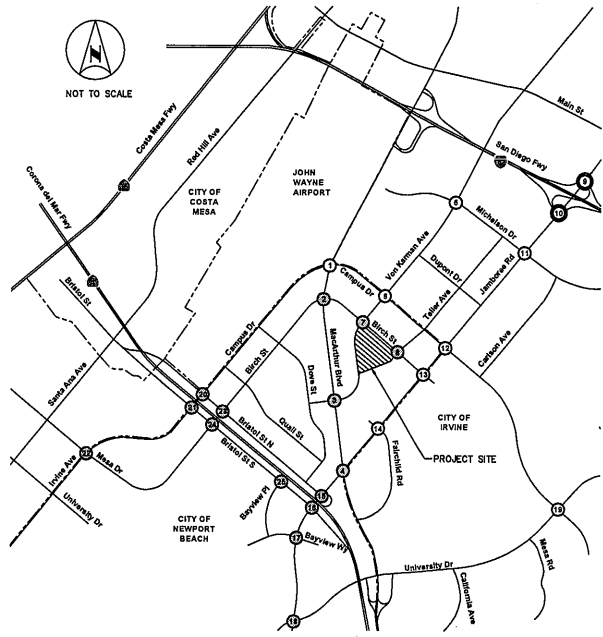
- ① Newport Beach Intersection
- ② Irvine Intersection
- ③ Caltrans Intersection
- City Boundary
- XX/YY AM/PM Peak Hour Turning Movement Volumes

FIGURE 15
POST-2030 GENERAL PLAN BUILD-OUT PEAK HOUR TRAFFIC VOLUMES



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1. MacArthur Blvd at Campus Dr Campus 500/140 240/150 40/140 230/1470 40/150 770/530 960/700 250/140 100/150 150/150	2. MacArthur Blvd at Birch St MacArthur 230/590 670/700 710/460 672/484 60/70 35/284 318/1025 50/150 50/700 150/1000	3. MacArthur Blvd at Von Karman Ave MacArthur 46/110 180/210 18/187 170/270 60/100 170/270 60/100 140/210 140/210	4. MacArthur Blvd at Jamboree Rd MacArthur 177/844 170/180 1123/1272 425/824 180/210 180/210 180/210 180/210	5. Von Karman Ave at Michelson Dr Von Karman NOT ANALYZED FOR THIS SCENARIO	6. Von Karman Ave at Campus Dr Von Karman 100/140 460/104 60/40 370/240 750/1020 50/70 100/150 150/150
7. Von Karman Ave at Birch St Von Karman NOT ANALYZED FOR THIS SCENARIO	8. Teller Ave at Birch St Teller NOT ANALYZED FOR THIS SCENARIO	9. Jamboree Rd at I-405 NB Ramp Jamboree NOT ANALYZED FOR THIS SCENARIO	10. Jamboree Rd at I-405 SB Ramp Jamboree NOT ANALYZED FOR THIS SCENARIO	11. Jamboree Rd at Michelson Dr Jamboree NOT ANALYZED FOR THIS SCENARIO	12. Jamboree Rd at Campus Dr Jamboree 170/530 840/850 200/350 280/700 30/50 100/150 150/150
13. Jamboree Rd at Birch St Jamboree 280/686 90/70 18/423 170/10 70/50 60/50 10/70	14. Jamboree Rd at Fairchild Rd Jamboree NOT ANALYZED FOR THIS SCENARIO	15. Jamboree Rd at Bristol St N Jamboree 744/143 736/143 1540/600 371/2833	16. Jamboree Rd at Bristol St S Jamboree 2153/1188 870/1000 1020/1010 705/143 270/245 60/110	17. Jamboree Rd at Bayview Wy Jamboree 180/90 10/10 40/170 140/65 50/70 1882/2338 50/70	18. Jamboree Rd at University Dr Jamboree 510/200 100/110 15/10 270/290 100/110 15/10 170/210 110/110 100/110 15/10
19. University Dr at Campus Dr University NOT ANALYZED FOR THIS SCENARIO	20. Bristol St N at Campus Dr Campus 100/270 310/181 250/140 2025/286 310/240 540/650 227/170	21. Bristol St S at Campus Dr Campus 137/182 1590/420 670/630 725/291 110/210 310/177 510/110	22. Irvine Ave at Mesa Dr Irvine 500/70 310/90 49/223 40/200 2020/201 10/70 170/400 84/77 171/431	23. Bristol St N at Birch St Birch 462/484 271/831 825/140 1234/123 480/530 110/140 1330/161	24. Bristol St S at Birch St Birch 462/484 271/831 825/140 1234/123 480/530 500/300 1200/460 210/130
25. Bristol St S at Bayview Pl Bayview 3551/2318 120/70 60/700					



LEGEND:

- ⊕ Newport Beach Intersection
- ⊗ Irvine Intersection
- ⊙ Caltrans Intersection
- City Boundary
- xx/yy AM/PM Peak Hour Turning Movement Volumes

FIGURE 16
POST-2030 GENERAL PLAN BUILD-OUT WITH PROJECT PEAK HOUR TRAFFIC VOLUMES



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Table 11: Intersection Operation – Post-2030 General Plan Buildout With Project Conditions

Int. #	Intersection	AM Peak Hour						PM Peak Hour					
		2006 General Plan Buildout ^{2,3}		2006 General Plan Buildout With Project ⁴		Change in ICU	New Impact?	2006 General Plan Buildout ^{2,3}		2006 General Plan Buildout With Project ⁴		Change in ICU	New Impact?
		ICU	LOS	ICU	LOS			ICU	LOS	ICU	LOS		
1	MacArthur Blvd at Campus Dr*	0.81	D	0.81	D	0.00	No	1.24	F	1.24	F	0.00	No
2	MacArthur Blvd at Birch St	0.79	C	0.80	C	0.01	No	0.90	D	0.90	D	0.00	No
3	MacArthur Blvd at Von Karman Ave	0.54	A	0.54	A	0.00	No	0.65	B	0.65	B	0.00	No
4	MacArthur Blvd at Jamboree Rd*	0.93	E	0.94	E	0.01	No	1.02	F	1.02	F	0.00	No
6	Von Karman Ave at Campus Dr*	0.73	C	0.73	C	0.00	No	0.97	E	0.97	E	0.00	No
12	Jamboree Rd at Campus Dr*	0.93	E	0.93	E	0.00	No	1.18	F	1.18	F	0.00	No
13	Jamboree Rd at Birch St*	1.00	F	1.01	F	0.01	No	0.83	D	0.84	D	0.01	No
15	Jamboree Rd at Bristol St N	0.68	B	0.68	B	0.00	No	0.67	B	0.67	B	0.00	No
16	Jamboree Rd at Bristol St S	0.94	E	0.94	E	0.00	No	0.87	D	0.87	D	0.00	No
17	Jamboree Rd at Bayview Way	0.45	A	0.45	A	0.00	No	0.66	B	0.66	B	0.00	No
18	Jamboree Rd at University Dr	0.68	B	0.68	B	0.00	No	0.67	B	0.67	B	0.00	No
20	Bristol St N at Campus Dr	1.02	F	1.03	F	0.01	No	1.06	F	1.06	F	0.00	No
21	Bristol St S at Irvine Ave / Campus Dr	0.89	D	0.89	D	0.00	No	0.77	C	0.78	C	0.01	No
22	Irvine Ave at Mesa Dr	0.98	E	0.98	E	0.00	No	1.19	F	1.19	F	0.00	No
23	Birch St at Bristol St N	0.92	E	0.92	E	0.00	No	0.81	D	0.81	D	0.00	No
24	Birch St at Bristol St S	0.55	A	0.55	A	0.00	No	0.54	A	0.54	A	0.00	No
25	Bayview Pl at Bristol St S	0.60	A	0.60	A	0.00	No	0.63	B	0.63	B	0.00	No

Notes:
 - Bold and shaded values indicate intersections operating at an unacceptable Level of Service
 - Intersection operation is expressed in volume-to-capacity (v/c) ratio for signalized intersections, and average delay for unsignalized intersections.
 - Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.
 * Level of Service E is acceptable at this intersection.
¹ A 5% capacity credit is applied at this intersection to reflect implementation of the Advanced Transportation Management System (ATMS)
² Source: 2006 General Plan Transportation Study. Excerpts are provided in Appendix H of this report.
³ This scenario assumes the following uses for NBTM TAZ 1405, where the project site is located: 128 apartment units, 128,610 square feet of general commercial use, and 695,137 square feet of office use
⁴ This "With Project" scenario assumes an additional 184 dwelling units (delta), for a total of 312 dwelling units, as proposed by the Project.

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9 OTHER ISSUES

9.1 ANALYSIS OF INTERSTATE HIGHWAY FACILITIES

Intersections on Interstate Highway Facilities

Intersections on Interstate Highway facilities, which are controlled by Caltrans, are also analyzed using the Highway Capacity Manual (HCM) methodology, as required by the *Caltrans Guide for the Preparation of Traffic Impact Studies* (State of California Department of Transportation, December 2002). In the vicinity of the project, the I-405 and SR-73 freeways are Caltrans facilities. Therefore, the following study were analyzed using the HCM intersection analysis methodology:

9. Jamboree Road at I-405 NB Ramps
10. Jamboree Road at I-405 SB Ramps

The HCM methodology measures average seconds of delay per vehicle based on a number of technical parameters, such as peak hourly traffic volumes, number of lanes, type of signal operation, signal timing, and signal phasing in the calculations. A description of each Level of Service, based on delay parameters, per the Highway Capacity Manual (HCM) is provided in the chart on the following page.

For State-controlled intersections, Level of Service standards and impact criteria specified by Caltrans will apply. The *Caltrans Guide for the Preparation of Traffic Impact Studies* states that “Caltrans endeavors to maintain a target Level of Service at the transition between LOS C and LOS D on State highway facilities. If an existing Interstate highway facility is operating at less than the target LOS, the existing Level of Service is to be maintained.”

Traffic Impact Criteria

The *Caltrans Guide for the Preparation of Traffic Impact Studies* does not establish a threshold of significance for Interstate Highway intersections. This traffic analysis uses the following traffic threshold of significance:

- A significant project impact occurs at an Interstate Highway study intersection when the addition of project-generated trips causes the peak hour level of service of the study intersection to change from acceptable operation (LOS A, B, or C) to deficient operation (LOS D, E, or F).

LEVEL OF SERVICE DESCRIPTIONS		
Level of Service	Signalized Intersection Delay (sec)	Description
A	≤10	LOS A describes operations with a control delay of 10 seconds per vehicle or less and a volume-to-capacity ratio no greater than 1.0. This level is typically assigned when the volume-to-capacity ratio is low and either progression is exceptionally favorable, or the cycle length is very short. If it is due to favorable progression, most vehicles arrive during the green indication and travel through the intersection without stopping.
B	> 10 and ≤ 20	LOS B describes operations with control delay between 10 and 20 seconds per vehicle and a volume-to-capacity ratio no greater than 1.0. This level is typically assigned when the volume-to-capacity ratio is low and either progression is exceptionally favorable, or the cycle length is short. More vehicles stop than with LOS A.
C	> 20 and ≤ 35	LOS C describes operations with control delay between 20 and 35 seconds per vehicle and a volume-to-capacity ratio no greater than 1.0. This level is typically assigned when the progression is favorable, and the cycle length is moderate. Individual cycle failures (i.e., one or more queued vehicles are not able to depart as a result of insufficient capacity during the cycle) may begin to appear at this level. The number of vehicles stopping is significant, although many vehicles still pass through the intersection without stopping.
D	> 35 and ≤ 55	LOS D describes operations with control delay between 35 and 55 seconds per vehicle and a volume-to-capacity ratio no greater than 1.0. This level is typically assigned when the volume-to-capacity ratio is high and either progression is ineffective, or the cycle length is long. Many vehicles stop and individual cycle failures are noticeable.
E	> 55 and ≤ 80	LOS E describes operations with control delay between 55 and 80 seconds per vehicle and a volume-to-capacity ratio no greater than 1.0. This level is typically assigned when the volume-to-capacity ratio is high, progression is unfavorable, and the cycle length is long. Individual cycle failures are frequent.
Source: Highway Capacity Manual, 6 th Edition		

Interstate Highway Intersection Analysis

Peak hour intersection analysis was conducted using the HCM methodology for the following Interstate Highway study intersections:

9. Jamboree Road at I-405 NB Ramps
10. Jamboree Road at I-405 SB Ramps

Intersection analysis worksheets for all HCM analysis of Interstate Highway intersections are provided in *Appendix E*.

Existing Conditions

Existing peak hour intersection operations for the Interstate Highway study intersections are summarized on **Table 11**. Each of the Interstate Highway study intersections currently operates at an acceptable Level of Service using the HCM delay analysis methodology.

CEQA Analysis Year 2025 Without Project

CEQA Analysis Year 2025 Without Project peak hour operation for the Interstate Highway study intersections are summarized on Table 11, previously referenced. The intersection of Jamboree Road at the I-405 Southbound Ramps would operate at LOS D in the morning peak hour under CEQA Analysis Year 2025 Without Project conditions.

CEQA Analysis Year 2025 With Project

CEQA Analysis Year 2025 With Project peak hour operation for the Interstate Highway study intersections are summarized on Table 11, previously referenced. With the addition of project traffic, the intersection of Jamboree Road at the I-405 Southbound Ramps would continue to operate at LOS D in the morning peak hour. The project traffic would not cause the Level of Service at this intersection to worsen, and therefore would not result in a significant impact. The intersection of Jamboree Road at the I-405 Northbound Ramps would continue to operate at an acceptable Level of Service.

Table 12: Summary of Interstate Highway Intersection Operations					
Int. #	Intersection	AM Peak Hour		PM Peak Hour	
		Delay	LOS	Delay	LOS
Existing Conditions					
9	Jamboree Rd at I-405 NB Ramps	18.3	B	10.9	B
10	Jamboree Rd at I-405 SB Ramps	25.6	C	20.9	C
CEQA Analysis Year 2025 Without Project					
9	Jamboree Rd at I-405 NB Ramps	19.5	B	13.7	B
10	Jamboree Rd at I-405 SB Ramps	54.0	D	22.9	C
CEQA Analysis Year 2025 With Project					
9	Jamboree Rd at I-405 NB Ramps	19.5	B	13.9	B
10	Jamboree Rd at I-405 SB Ramps	54.2	D	23.0	C
Note: - Bold values indicate intersections operating at an unacceptable Level of Service - Delay values for unsignalized intersections represent the average vehicle delay on the worst (highest delay) intersection approach.					

9.2 CONGESTION MANAGEMENT PROGRAM COMPLIANCE

The Orange County Congestion Management Program (CMP) was established in 1991, to reduce traffic congestion and to provide a mechanism for coordinating land use and development decisions. Compliance with CMP requirements ensures a city's eligibility to compete for State gas tax funds for local transportation projects.

A copy of the County of Orange CMP Highway System is provided in *Appendix F*. Within the project study area, the CMP Highway System includes two arterials: Jamboree Road north of MacArthur Boulevard, and MacArthur Boulevard south of Jamboree Road. CMP intersections in the vicinity of the Project consist of:

4. MacArthur Boulevard at Jamboree Road
9. Jamboree Road at I-405 Northbound Ramps
10. Jamboree Road at I-405 Southbound Ramps

The Orange County CMP states that "a TIA will be required for CMP purposes for all proposed developments generating 2,400 or more daily trips," and that "for developments which will directly access a CMP Highway System link, the threshold for requiring a TIA should be reduced to 1,600 or more trips per day.

The Project is estimated to generate approximately 1,697 daily trips but does not directly access a CMP Highway System Link. Base on CMP criteria, a separate CMP analysis is not required of the Project.

9.3 SITE ACCESS AND SITE CIRCULATION

Vehicular access to Koll Center Newport is currently provided by three driveways on Birch Street, and two driveways on Von Karman Avenue. Cross access throughout the site currently allows drivers to access any parking area within Koll Center Newport from any of the site driveways. All driveways are unsignalized and gated. Drivers access the site either by a key card or by pressing the button and pulling a parking ticket. To exit the site, key card users use their card to raise the gate. Visitors must insert a validated ticket or pay at the gate in order to exit.

For discussion purposes, the driveways have been numbered 1 through 5, as shown on **Figure 17**. The following provides a brief description of each of the existing driveways.

Existing Driveway 1: The westernmost driveway on Birch Street is located approximately 300 feet east of Von Karman Avenue, and is a full-movement driveway. It is 30 feet wide and provides one inbound lane and one outbound lane. The entry gate on Driveway 1 is set back approximately 95 feet from Birch Street. This driveway leads directly to a surface parking area at the north end of the Koll Center Newport site.

Existing Driveway 2: The middle driveway on Birch Street is located approximately 600 feet east of Von Karman Avenue, and is a full-movement driveway. It is 36 feet wide, and provides one inbound lane and one outbound lane, with a narrow, raised median. The entry gate is set back approximately 165 feet from Birch Street. This driveway intersects with the spine street that runs through the Koll Center Newport site and connects Von Karman Avenue and Birch Street in an east-west orientation.

Existing Driveway 3: The eastern driveway on Birch Street is located approximately 1,100 feet east of Von Karman Avenue and approximately 750 feet west of Jamboree Road and is a full-movement driveway. It is 36 feet wide and provides one inbound lane and one outbound lane. Driveway 3 is connected to Teller Avenue. This driveway connects in a T-intersection to the spine street approximately 85 feet from Birch Street. Entry gates are located on the main spine street, approximately 50 feet to the west, and approximately 100 feet to the east of the T-intersection.

Existing Driveway 4: The northern driveway on Von Karman Avenue is located approximately 350 feet south of Birch Street and is an exit-only driveway. It is approximately 15 feet wide, and provides one outbound lane only, from which drivers can make both left and right turns.

Existing Driveway 5: The southern driveway on Von Karman Avenue is located approximately 900 feet south of Birch Street and is a full-movement driveway. It is 36 feet wide and provides one inbound and one outbound lane. The entry gate is set back approximately 90 feet from Von Karman Avenue. This driveway is the western end of the spine street that connects Von Karman Avenue and Birch Street in an east-west orientation.

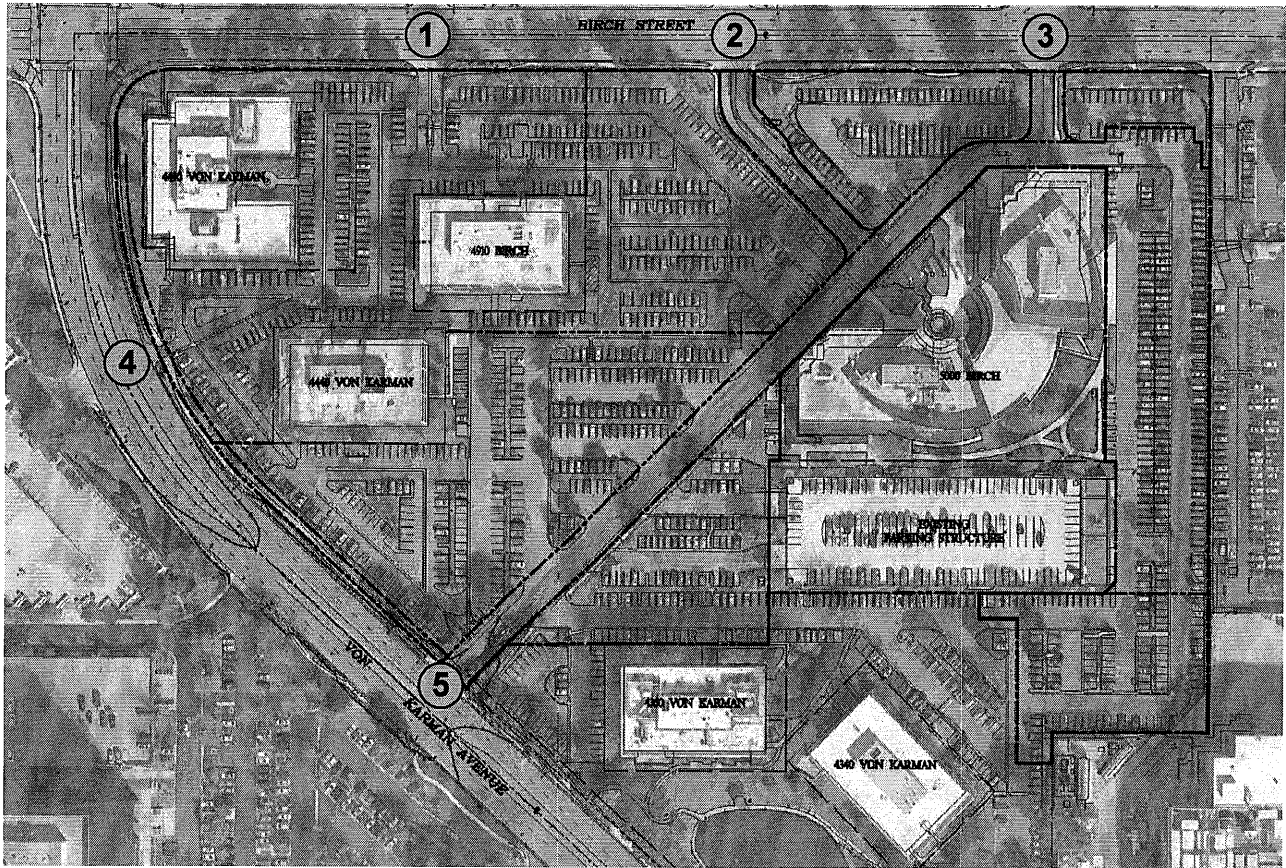
As part of the proposed Project, the five existing site driveways for Koll Center Newport will remain in their current locations, with several changes to the access provisions for the site, as follows:

- The main drive aisle that runs from Von Karman Avenue to Birch Street will become an open-access internal street through the site. All gates to the Koll Center Newport parking areas and to the new residential buildings will be located off the internal street.
- A free-standing parking structure will be constructed prior to construction of the residential building. This parking structure will be provided for office users because of surface parking removed as a part of the Project. When completed, the parking structure will provide 275 spaces for office uses.
- Access to the residential parking will be via a gated entrance directly off the spine street, which will be accessible from Driveways 2, 3, and 5.

The following addresses any changes proposed as a part of the Project:

Driveway 1 With Project: No changes are proposed for Driveway 1. However, as a part of the Project, office parking displaced by the Project would be provided in the residential building's parking structure, in a new, free-standing parking structure, and in surface parking areas. An entry to the residential parking structure for office parking would be provided near the 4910 Birch Street office building using this driveway.

Driveway 2 With Project: The entry gate on Driveway 2 will be removed. A gated entry to the residential portion of the residential development parking structure will be provided off Driveway 2. Drivers entering Driveway 2 will be able to access all parking areas of Koll Center Newport, except the surface parking areas immediately accessed by Driveway 1. Driveway 2 will be reconfigured to provide one inbound lane and two outbound lanes, with one left-turn and one right-turn lane.



**FIGURE 17
EXISTING SITE ACCESS**



NOT TO SCALE

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Driveway 3 With Project: The Koll Center Newport entry gates on the main drive aisle on either side of Driveway 3 will be removed. A new office parking gate for the parking areas to the east of the driveway will be provided approximately 80 feet to the southeast. Drivers entering Driveway 3 will be able to access all parking areas of Koll Center Newport, except the surface parking areas immediately accessed by Driveway 1..

Driveway 4 With Project: Driveway 4 will remain an exit-only driveway and will be accessible only from the surface parking areas immediately accessed by Driveway 1. Outbound movements will be restricted to right turns only.

Driveway 5 With Project: The entry gate on Driveway 5 will be removed. A new office parking gate for the parking areas to the east of the driveway will be provided on the first intersecting drive aisle. Driveway 5 will be reconfigured to provide one inbound lane and two outbound lanes, with one left-turn and one right-turn lane.

9.4 CONSTRUCTION TRAFFIC

Construction of the proposed Project would add construction-related trips to and from the site during construction activities. These trips are associated with construction activities, including construction workers, grading, and construction of structures and site features.

Large construction equipment such as bulldozers, loaders, scrapers, and pavers would be required during various construction phases. Large equipment is generally brought to the site at the start of the construction phase and kept on site until its term of use ends. A staging area would be designated on-site to store construction equipment and supplies during construction.

Throughout construction, the size of the work crew reporting to the site each day would vary depending on the construction phase and the different activities taking place at the time. Parking for workers would be provided on-site during all phases of construction. Construction workers will not be allowed to park on local streets. If needed during the peak construction periods, off-site parking will be provided, and workers will carpool or be shuttled to the worksite. The Applicant will be required to prepare a Parking Management Plan for construction parking.

The Applicant will be required to prepare a construction management plan to identify the timing of construction activities, and the movement of construction vehicles. There will be no dirt hauling activities allowed to and from the site during the peak hours during any of the construction phases.

Construction Phasing

Free-Standing Parking Structure

Construction of the free-standing parking structure requires the demolition of approximately 106 surface parking spaces and associated landscaping. A free-standing, 275-stall parking structure would be constructed prior to breaking ground on the remainder of the Project in order to replace surface parking temporarily and permanently displaced by site development. The parking structure would have three levels of above-ground parking, including rooftop parking. Construction activities are anticipated to occur over an approximate six-month timeframe.

Residential Structure

Upon completion of the free-standing parking structure, approximately 443 surface parking spaces would be demolished to allow for the construction of the Project. At the completion of this phase of the Project, there would be 1,645 parking spaces with parking for the Project residences and guests, as well as 275 spaces in the structure for office users.

The proposed Project's site grading and foundation excavation would require the removal of approximately 112,000 cubic yards (cy) of material. It is anticipated that all 112,000 cy will be exported from the site. Construction activities are anticipated to occur over a 24-month time period.

The Project includes the demolition of 75 additional surface parking spaces to allow for the reconfiguration of on-site surface parking and access. No grading is assumed. Construction activities would run concurrently with the residential structure over an approximate 3-month time period.

Construction Traffic Management

Heavy vehicles associated with construction of the Project would use the existing regional and local truck route network to approach the site, getting as close to the destination site as possible before turning off the designated truck route. Impacts from construction traffic would be occasional and temporary delays to traffic, during the movement of heavy equipment or transport of heavy loads to and from the site.

The Applicant will be required to provide a construction management plan, and to identify planned travel patterns for haul vehicles, and obtain a Haul Route Permit from the City. Approach and departure routes for construction vehicles will be via Jamboree Road, MacArthur Boulevard, Von Karman Avenue and Birch Street. Depending on the origin/destination (the nearest landfill, or the deposit site identified for cut material), trucks will either arrive and depart via I-405, to the north of the site; or via SR-73, to the south of the site. No heavy vehicle traffic will be permitted during peak commute hours.

10 CONCLUSIONS

A comparison analysis has been conducted to determine whether the proposed Residences at 4400 Von Karman (Project) would result in any new significant environmental impacts as compared to the conclusions discussed in the City of Newport Beach General Plan Transportation Study (March 2006). Based on the comparison analysis, the proposed Project would not result in any new traffic-related impacts compared to those identified in the City of Newport Beach 2006 General Plan Transportation Study. The Traffic Impact Study finds that the traffic-related potential impacts associated with the proposed Project would either be the same or not substantially greater than those described in the 2006 General Plan Update EIR.

Exhibit "D"

RESIDENCES AT 4440 VON KARMAN

AFFORDABLE HOUSING IMPLEMENTATION PLAN AND DENSITY BONUS APPLICATION

RESUBMITTED OCTOBER 26, 2020

Prepared by

**Springbrook 
Realty Advisors, Inc.**

RESIDENCES AT 4440 VON KARMAN
AFFORDABLE HOUSING IMPLEMENTATION PLAN AND DENSITY BONUS APPLICATION
OCTOBER 26, 2020

Project Description & Affordability Level

TPG (KCN) Acquisition, LLC (“Picerne”) is proposing the 312 unit Residences at 4440 Von Karman development (“Project”) on a site located in Planned Community Development Plan #15 (Koll Center Newport Planned Community). The Project site is irregularly shaped and is bounded by Birch Street, Von Karman Avenue, and the existing surface parking lot for the Jazz Semiconductor facility. Although the total Project site is approximately 13.0 acres, that is inclusive of existing surface parking serving existing office buildings as well as a proposed parking structure which is planned to replace existing surface parking on the residential development site serving the existing office buildings. The net development area, including parks, landscaped walkways, access drives, the replacement parking structure, and existing parking totals approximately 8.7 acres. The balance of the Project site (approximately 4.3 acres) consists of an existing access easement, parking lots, and offices.

The Newport Beach General Plan designates the Project site as Mixed-Use Horizontal 2 (MU-H2) and the zoning is Planned Community 15, Koll Center (PC 15). The site is currently developed as a surface parking lot serving existing office uses. Those parking spaces will be replaced in a proposed parking structure to be located in the southeast corner of the Project site as well as in the parking garage for the proposed residential Project. As part of the Project, Picerne intends to develop and dedicate a 1.1-acre Public Park to the City of Newport Beach.

The Project is planned to consist of a total of 312 units: 260 units based on the current remaining additive residential units (“Base” units) per the Airport Business Area Integrated Conceptual Development Plan for Koll and Conexant Properties (“ICDP”) and 52 density bonus units (i.e., 20% of the 260 Base units). In accordance with Government Code Section 65915, five percent of the Base units (i.e., 13 units) will be made affordable to Very Low Income households. Very Low Income households, as defined in California Health and Safety Code Section 50105, are households earning 50 percent or less of area median income, adjusted for family size.

Eligibility for Density Bonus

Picerne will be providing 13 units (i.e. 5% of Base units) affordable to Very Low Income households (“Very Low Income units”). This will comply with the provisions of Government Code Section 65915 and Section 20.32 of the City’s Zoning Code applicable to a 20% density bonus. Rents for the Very Low Income units will be computed in accordance with Health and Safety Code Sec. 50053, as required by Government Code Section 65915(c)(1).

Density Bonus Computation and Term of Affordability

The density bonus computation for the Project per Government Code Section 65915 is shown below:

**Table 1
Density Bonus Computation**

Remaining Units Per ICDP (Before Density Bonus)	260
Density Bonus Utilized (20%)	52
Total Units	312

Picerne intends to operate the apartment Project as a rental community. The 13 Very Low Income units will remain rent restricted for a minimum of 55 years, per Government Code Section 65915(c)(1).

Reduction in Parking

The Project meets the criteria of subdivision (b) of Government Code Sec. 65915 and Section 20.32.030 of the City’s Zoning Code by providing at least five percent (5%) of the total units of a housing development (excluding any units permitted by the density bonus awarded pursuant to that section) for Very Low Income households.

Government Code Section 65915(p) and Section 20.32.040 of the City’s Zoning Code provide the following:

- (1) Upon the request of the developer, no city, county, or city and county shall require a vehicular parking ratio, inclusive of handicapped and guest parking, of a development meeting the criteria of subdivision (b), that exceeds the following ratios:
 - a. Zero to one bedrooms: one onsite parking space.
 - b. Two to three bedrooms: two onsite parking spaces.
- (2) If the total number of parking spaces required for a development is other than a whole number, the number shall be rounded up to the next whole number. For purposes of this subdivision, a development may provide “onsite parking” through tandem parking or uncovered parking, but not through street parking.

Table 2 on the next page is a summary of Government Code Sec. 65915 parking requirements vs. spaces to be provided:

Table 2
Parking Requirements

Unit Type	Number of Units	Stalls/Unit	
		Per Gov. Code 65915	Parking Stalls
Studio	55	1.0	55
1 BR	149	1.0	149
2 BR	108	2.0	216
TOTAL PARKING STALLS REQUIRED - RESIDENTIAL UNITS	312	1.3	420

Unit Type	Number of Units	Stalls/Unit	
		Per Gov. Code 65915	Parking Stalls
Studio	55	1.0	55
1 BR	149	1.0	149
2 BR	108	2.0	216
TOTAL PARKING STALLS REQUIRED - RESIDENTIAL UNITS	312	1.3	420
TOTAL PARKING STALLS PROVIDED - RESIDENTIAL UNITS			559
PARKING PROVIDED IN EXCESS OF MINIMUM REQUIREMENTS			139
OFFICE PARKING PROVIDED IN RESIDENTIAL STRUCTURE			276
TOTAL PARKING STALLS PROVIDED IN RESIDENTIAL STRUCTURE			835

Picerne requests that parking requirements be calculated in accordance with Government Code Sec. 65915(p). The project is currently planning to provide 559 onsite parking spaces for its residential units, subject to changes pending approval of final building plans.

Development Incentive Request

Pursuant to Government Code Section 65915(d)(1) and Section 20.32 of the City’s Zoning Code, Picerne is entitled to one concession or incentive as a result of providing at least five percent (5%) of the units as affordable for Very Low Income households. Picerne requests the following development incentive:

Section 20.32.070 of the City’s Zoning Code provides that “Affordable units [in a density bonus project] shall reflect the range of numbers of bedrooms provided in the residential development project as a whole.” Picerne requests that the 13 Very Low Income units be

provided utilizing the unit mixes as shown below rather than a unit mix proportional to the development as a whole:

**Table 3
 Unit Mix**

Unit Type	Total Units	Very Low Income Units
Studio	55	3
1 Bedroom	149	9
2 Bedroom	108	1
Total	312	13

As required by Government Code Sec. 65915(d)(1)(A), this incentive will result in additional rental income for the Project as well as construction cost reductions for the affordable units, which will enable the affordable rents to be set in accordance with Government Code Sec. 65915(c)(1).

Income Limits and Examples of Eligible Tenants for Affordable Homes

Very Low Income Households are defined as households whose gross income does not exceed 50% of area median income, adjusted for household size. Table 4 on the following page shows the maximum income limits as determined by the U.S. Department of Housing and Urban Development and the California Department of Housing and Community Development (“HCD”) for Very Low Income households with household sizes appropriate for Residences at 4440 Von Karman:

**Table 4
 Maximum Income Limits**

Household Size	Very Low Income Units Maximum Annual Income - 2020
1 Person	\$44,850
2 Person	51,250
3 Person	57,650
4 Person	64,050
5 Person	69,200

Higher income limits apply to larger families of 6 or more persons; however those families are not considered to be a target market for Residences at 4440 Von Karman, where the unit mix consists of studios, one-bedroom, and two-bedroom apartment homes.

The Project’s 13 affordable homes will be rented to eligible Very Low Income households. As shown in Table 4, Very Low Income households include incomes ranging from \$44,850 per year for a one-person household to \$69,200 per year for a five-person household. As such this could include service industry employees (waitresses, retail managers, hotel receptionists etc.), school district employees, health care employees, and other occupations which provide needed services to our community. While household size, overtime pay, summer jobs, or second jobs may affect eligibility, the income limits above are reflective of pay to many public or health care sector workers, as shown in Table 5 below:

**Table 5
 Examples of Qualifying Salaries**

A Very Low Income household must have household income which does not exceed a range of \$44,850 to \$69,200, depending on household size. Following are examples of positions available at the City, at Newport-Mesa Unified School District, and at Hoag Hospital which may be representative of future residents in affordable units at the Residences at Uptown Newport North.			
<u>Position</u>	<u>Pay Range</u>	<u>Information</u> <u>Source</u>	<u>Comments</u>
Library Clerk I or Library Clerk II	\$38,896-\$60,590	State	Will qualify.
Police Comm. Service Officer	44,158-68,494	State	Will qualify
Newport-Mesa School District Custodian/Head Custodian	42,768-56,472	NMUSD	Will qualify
Newport Mesa School District Administrative Asst.	49,764-60,936	NMUSD	Will qualify
Hoag Hospital Administrative Asst.	44,000-51,000	Glass Door	Will qualify

The pay ranges shown above are as of 2018 through 2020 (depending on source) and are subject to periodic update. Retired persons or couples or young business professionals starting their careers may also qualify to rent the affordable homes. In order to provide opportunities to workers to live in one of the affordable homes, the City could provide guidelines providing for acceptance of applications on a priority basis from classes of individuals who qualify under the income limits in effect. The guidelines could provide for priority treatment for City employees, employees of the local school district, and employees of major health care institutions or other categories identified by the City for priority treatment.

Rental Rate Limits for Affordable Homes

The 13 Very Low Income units shall be rented at an affordable rent calculated in accordance with the provisions of Section 50053 of the Health and Safety Code. Section 50053 of the Health and Safety Code limits affordable rent to 30% of total income for a Very Low Income household, as calculated in Table 6 below. That section also requires that the rent for a studio unit assumes a one-person household for rent calculation purposes, a one-bedroom unit assumes a two-person household, and a two-bedroom unit assumes a three-person household. The rents calculated are then adjusted by a utility allowance as determined annually by the County of Orange Housing &

Community Services Department. As of October 1, 2019, the reduction for the utility allowance is \$119.00 per month for a studio unit, \$132.00 per month for a one-bedroom unit, and \$171.00 per month for a two-bedroom unit. The utility allowance utilized assumes gas cooking, gas space heating, gas water heating, as well as water, and sewer, and trash fees which will be paid by the tenant.

Table 6
Maximum Rents by Bedroom Count

Bedrooms	Maximum Annual Rent - 2020	Maximum Monthly Rent - 2020	Utility Allowance¹	Affordable Rent - 2020
<i>Very Low</i>				
Studio	\$10,815	\$901	\$119	\$782
1 Bedroom	12,360	1,030	132	898
2 Bedroom	13,905	1,159	171	988

¹Utility allowances will be updated prior to commencement of leasing activities to reflect updated utility allowances and final utility configurations.

Picerne will enter into an affordable housing agreement, in recordable form, with the City prior to obtaining the first building permit for any residential unit within the Project. That agreement will ensure that the maximum rents for the affordable apartment homes will be calculated using the methodologies as utilized in Table 6. The rental rates shown will be updated prior to the commencement of rental activities and on an ongoing basis to reflect then current income limits, utility allowances, and any changes in applicable regulations and statutes.

Unit Mix, Design, and Location of Affordable Homes

While the exact location of each of the affordable homes within the Residences at 4440 Von Karman has not yet been determined, the affordable homes will be spread throughout the development to avoid concentration of affordable homes in any area. The affordable homes shall be comparable in the quality of construction and exterior design to the market rate homes. The affordable homes will be marketed concurrently with the market rate homes and will be released for occupancy roughly proportional to release of the market rate homes for occupancy. All affordable homes will have access to the facilities and amenities offered by the development.

Residences at 4440 Von Karman
Affordable Housing Implementation Plan and Density Bonus Application
October 26, 2020

Requested City of Newport Beach Assistance

Financial Assistance

Picerne is not requesting any direct financial assistance from the City of Newport Beach for the Project.

STATE OF CALIFORNIA }
COUNTY OF ORANGE }
CITY OF NEWPORT BEACH } ss.

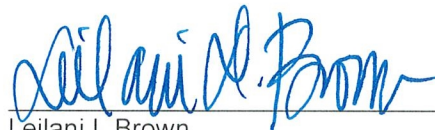
I, Leilani I. Brown, City Clerk of the City of Newport Beach, California, do hereby certify that the whole number of members of the City Council is seven; the foregoing resolution, being Resolution No. 2021-3 was duly introduced before and adopted by the City Council of said City at a regular meeting of said Council held on the 26th day of January, 2021; and the same was so passed and adopted by the following vote, to wit:

AYES: Mayor Brad Avery, Mayor Pro Tem Kevin Muldoon, Council Member Noah Blom, Council Member Joy Brenner, Council Member Diane Dixon, Council Member Duffy Duffield

NAYS: None

RECUSED: Council Member Will O'Neill

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the official seal of said City this 27th day of January, 2021.



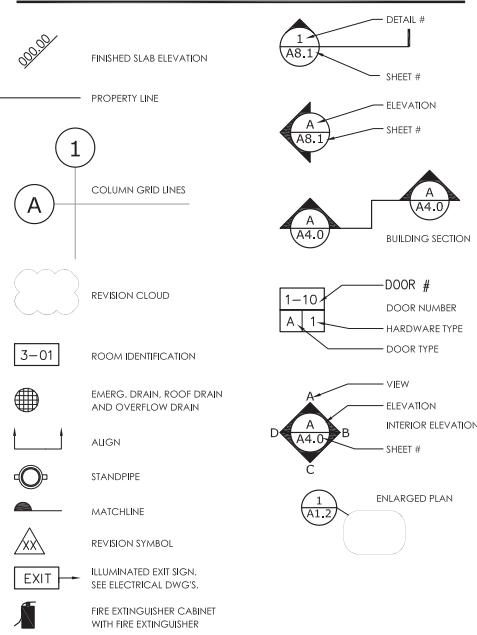
Leilani I. Brown
City Clerk
Newport Beach, California



Attachment No. CD 4

Project Plans

GRAPHIC SYMBOLS LEGEND



ABBREVIATIONS

&	AND	EXST.	EXISTING	O.C.	ON CENTER
∠	ANGLE	EXPO.	EXPOSED	O.D.	OVERFLOW DRAIN
@	AT	EXP.	EXPANSION	OPP.	OPPOSITE
∅	CENTERLINE	EXT.	EXTERIOR	O.H.	OPPOSITE HAND
∅	DIAMETER OR ROUND	F.A.	FIRE ALARM	PRCST.	PRECAST
#	ROUND OR NUMBER	F.D.	FLOOR DRAIN	P.I.	PROPERTY LINE
(E)	EXISTING	F.D.C.	FIRE DEPARTMENT CONNECTION	PLAM.	PLASTIC LAMINATE
A.D.	AREA DRAIN	FDN.	FOUNDATION	PLAST.	PLASTER
ACCOUST.	ACCOUSTICAL	F.F.	FIRE EXTINGUISHER	PLYWD.	PLYWOOD
ADJ.	ADJUSTABLE	F.F.C.	FIRE EXTINGUISHER CABINET	PR.	PAINT
A.F.F.	ABOVE FINISH FLOOR	F.N.	FLOOR	Q.T.	QUARRY TILE
AGGR.	AGGREGATE	FLASH.	FLASHING	R.	RISER
ALUM.	ALUMINUM	FLUOR.	FLUORESCENT	RAD.	RADIUS
APPROX.	APPROXIMATE	F.O.B.	FACE OF BUILDING	R.D.	ROOF DRAIN
ARCH.	ARCHITECTURAL	F.O.C.	FACE OF CONCRETE	REF.	REFERENCE
ASB.	ASBESTOS	F.O.F.	FACE OF FINISH	REFR.	REFRIGERATOR
ASPH.	ASPHALT	F.O.S.	FACE OF SLAB	REFR.	REFRIGERATED
BD.	BOARD	F.PRF.	FIREPROOF	REIN.	REINFORCED
BFUM.	BITUMINOUS	FT.	FEET OR FOOT	REQ.	REQUIRED
BLDG.	BUILDING	FURR.	FURRING	RESLANT.	RESILANT
BLK.	BLOCK	GA.	GUAGE	RM.	ROOM
BLKG.	BLOCKING	GALV.	GALVANIZED	R.O.	ROUGH OPENING
BM.	BEAM	G.B.	GRAB BAR	RWD.	REDWOOD
BOT.	BOTTOM	GL.	GLASS	R.W.L.	RAIN WATER LEADER
CAB.	CABINET	GND.	GROUND	S.	SOUTH
C.B.	CATCH BASIN	GR.	GRADE	S.C.	SOLID CORE
CEM.	CEMENT	GYP.	GYPSUM	SCHED.	SCHEDULE
C.I.	CAST IRON	H.B.	HOSE BBB	SECT.	SECTION
C.G.	CORNER GUARD	H.C.	HOLLOW CORE	S.F.	SQUARE FEET
C.L.G.	CEILING	HDWD.	HARDWOOD	SHT.	SHEET
CLG.	CALLING	HDWE.	HARDWARE	SH.	SHIM
CLD.	CLOSED	H.M.	HOLLOW METAL	S.P.	STANDPIPE
CLR.	CLEAR	HORL.	HORIZONTAL	SPEC.	SPECIFICATION
C.O.	CLEAN OUT	HR.	HOUR	SQ.	SQUARE
COL.	COLUMN	HGT.	HEIGHT	S.S.	STAINLESS STEEL
CONC.	CONCRETE	ID.	INSIDE DIAMETER (DIM.)	S.S.K.	SERVICE SINK
CONNL.	CONNECTION	INSUL.	INSULATION	STA.	STATION
CONSTR.	CONSTRUCTION	INT.	INTERIOR	STD.	STANDARD
CONT.	CONTINUOUS	JAN.	JANITOR	STL.	STEEL
COOR.	CORRIDOR	JT.	JOINT	STO.	STORAGE
CSK.	COUNTERSINK	KIT.	KITCHEN	STRUC.	STRUCTURAL
CHTR.	COUNTER	LAB.	LABORATORY	SUSP.	SUSPENDED
CTR.	CENTER	LAM.	LAMINATE	SYM.	SYMMETRICAL
DBL.	DOUBLE	LAV.	LAVATORY	TRD.	TREAD
DEPT.	DEPARTMENT	LCK.	LOCKER	T.B.	TOWEL BAR
D.F.	DRINKING FOUNTAIN	LGT.	LIGHT	T.C.	TOP OF CURB
DET.	DETAIL	LK.	LOCK	T.D.	TRENCH DRAIN
DIA.	DIAMETER	L.L.	LOAD	TEL.	TELEPHONE
DM.	DIMENSION	LT.	LIGHT	T&G	TONGUE AND GROOVE
DSP.	DEPENSER	MAX.	MAXIMUM	THK.	THICK
DNI.	DOWN	M.C.	MEDICINE CABINET	T.P.	TOP OF PAVEMENT
D.O.	DOOR OPENING	M.E.M.B.	MEMBRANE	T.V.	TELEVISION
DR.	DOOR	M.F.R.	MANUFACTURER	T.W.	TOP OF WALL
DWR.	DRAWER	M.H.	MANHOLE	TYP.	TYPICAL
D.S.	DOWN SPOUT	M.N.	MINIMUM	UNF.	UNFINISHED
D.S.P.	DRY STANDPIPE	M.O.	MISCELLANEOUS	U.N.O.	UNLESS OTHERWISE NOTED
DWG.	DRAWING	M.T.D.	MOUNTED	VERT.	VERTICAL
E	EAST	M.T.	METAL	VEST.	VESTIBULE
EA.	EACH	MFR.	MANUFACTURER	W.	WEST
E.D.	EMERGENCY DRAIN	M.H.	MANHOLE	W/	WITH
E.J.	EXPANSION JOINT	M.N.	MINIMUM	W.C.	WATER CLOSET
EL.	ELEVATION	M.O.	MISCELLANEOUS	WD.	WOOD
ELEC.	ELECTRICAL	M.O.	MASONRY OPENING	W/O	WITHOUT
ELEV.	ELEVATOR	M.T.D.	MOUNTED	WT.	WEIGHT
EMER.	EMERGENCY	N.	NORTH	WP.	WATERPROOF
ENCL.	ENCLOSURE	N.	NORTH		
E.O.S.	EDGE OF SLAB	N.I.C.	NOT IN CONTRACT		
E.P.	ELECTRICAL	NO. OR #	NUMBER		
F	FIRE EXTINGUISHER	N.I.S.	NOT TO SCALE		
EQ.	EQUAL	O.A.	OVERALL		
EQUIP.	EQUIPMENT	OB.S.	OBSCURE		

GREEN BUILDING REQUIREMENTS

CLEAN AIR VEHICLES
 CLEAN AIR VEHICLE REQUIRED - 12% PER 5.106.5.2 (CAL GREEN), TOTAL REQUIRED - 36
 TIER P1 = 5
 TIER P2 = 11
 TIER P3 = 10
 TIER P4 = 10
 TOTAL = 36 STALLS PROVIDED

ELECTRIC VEHICLES SPACES
 ELECTRIC VEHICLE SPACES REQUIRED - 10% PER 5.106.5.3 (CAL GREEN), TOTAL REQUIRED - 30
 TIER P1 = 30
 TIER P2 = 0
 TIER P3 = 0
 TIER P4 = 0
 TOTAL = 30 SPACES W/ EV CAPABILITY

VEHICLE CHARGER SPACES PROVIDED
 ELECTRIC VEHICLE SPACES:
 TIER P1 = 0
 TIER P2 = 0
 TIER P3 = 0
 TIER P4 = 0
 TOTAL = 0 SPACES PROVIDED W/ EV CHARGERS

ACCESSIBLE ELECTRICAL VEHICLE CHARGERS SPACES PER CBC 11B-228.3

EVCS TYPE	VAN	STANDARD	AMBULATORY
STALL SIZE	12'x18'	9'x18'	10'x18'
TIER P1 =	1	1	1
TIER P2 =	1	1	1
TIER P3 =	1	1	1
TIER P4 =	1	1	1

BICYCLE PARKING
 SHORT-TERM BICYCLE PARKING REQUIRED - 5% PER 5.106.4.1.2 (CAL GREEN)
 TOTAL REQUIRED - 8

LONG-TERM BICYCLE PARKING REQUIRED - 5% PER 5.106.4.1.2 (CAL GREEN)
 TOTAL REQUIRED - 8

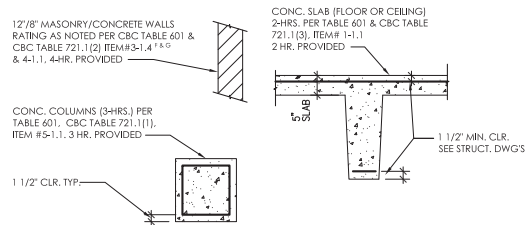
CODE REQUIREMENTS

2019 CALIFORNIA BUILDING STANDARDS ADMIN. CODE
 2019 CALIFORNIA BUILDING CODE (CBC)
 2019 CALIFORNIA MECHANICAL CODE (CMC)
 2019 CALIFORNIA PLUMBING CODE (CPC)
 2019 CALIFORNIA ELECTRICAL CODE (CEC)
 2019 CALIFORNIA FIRE CODE (CFC)
 2019 CALIFORNIA BUILDING CODE PART 4 ENERGY CODE
 2019 CALIFORNIA GREEN BUILDING CODE
 2019 CALIFORNIA REFERENCE STANDARD CODE
 CCR TITLE 19. PUBLIC SAFETY-DIVISION 1. STATE FIRE MARSHAL
 CITY OF NEWPORT BEACH MUNICIPAL CODE

2019 NFPA 14 - STANDPIPES
 2019 NFPA 72 - NATIONAL FIRE ALARM
 REFER TO 2019 CBC CH.35 & 2016 CFC
 CH.80 FOR ADDITIONAL STANDARDS THAT
 MAY BE APPLICABLE

C.B.C ASSEMBLIES USED IN PARKING STRUCTURE

FIRE-RESISTIVE CONSTRUCTION SHALL BE PROVIDED THROUGHOUT THE STRUCTURE.
 FIRE-RESISTIVE ASSEMBLIES SHALL BE BASED ON ICC APPROVED SYSTEMS PER CHAPTER 7 OF THE CBC.



BUILDING DATA & CODE ANALYSIS

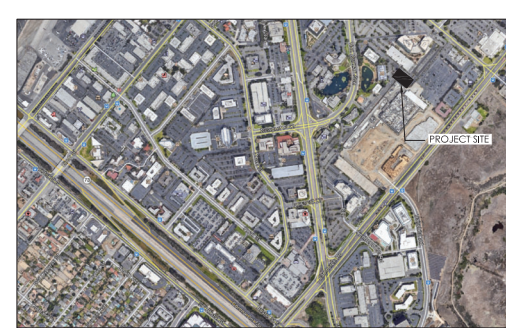
PROJECT NAME	4400 VON KARMAN PARKING STRUCTURE
DESCRIPTION	OVERALL SCOPE: THE PROJECT CONSISTS OF A NEW 4 LEVEL, CAST-IN-PLACE OPEN PARKING STRUCTURE (SLAB ON GRADE & 3 ELEVATED DECKS) W/ INTERIOR LIGHTING, PLUMBING & MECH. SYSTEMS FOR UTILITY ROOMS.
OCCUPANCY TYPE	S-2 OPEN PARKING STRUCTURE
CONSTRUCTION TYPE	TYPE IIB
BUILDING HEIGHT PROVIDED	REFER TO SHEET A5
ALLOWABLE NUMBER OF STORES ABOVE GRADE PLANE PER TABLE 406.5.4	8 STERS
NUMBER OF STORES PROVIDED	4 LEVELS
ALLOWABLE AREA PER TABLE 406.5.4	50,000
TOTAL PROVIDED BLDG. AREA	TIER P1 - 17,017 SF TIER P2 - 28,850 SF TIER P3 - 28,091 SF TIER P4 - 21,948 SF TOTAL = 95,906 SF
FIRE PROTECTION	FULLY-SPRINKLER AND STAND PIPE SYSTEM
OCCUPANT LOAD / EXITING REQ.	TIER P1: 17,017 SF/200 SF PER OCCUPANT = 85 TOTAL OCCUPANTS TIER P2: 28,850 SF/200 SF PER OCCUPANT = 144 TOTAL OCCUPANTS TIER P3: 28,091 SF/200 SF PER OCCUPANT = 140 TOTAL OCCUPANTS TIER P4: 21,948 SF/200 SF PER OCCUPANT = 110 TOTAL OCCUPANTS
PARKING PROVIDED	TIER P1 - 42 TIER P2 - 91 TIER P3 - 89 TIER P4 - 72 TOTAL = 294 STALLS

TIER	TOTAL BLDG. AREA						TOTAL	TOTAL OCCUPANTS	TOTAL STALLS
	Area	Occupant	Stall	Area	Occupant	Stall			
TIER P1	17,017	85	42	17,017	85	42	85	42	
TIER P2	28,850	144	91	28,850	144	91	144	91	
TIER P3	28,091	140	89	28,091	140	89	140	89	
TIER P4	21,948	110	72	21,948	110	72	110	72	
TOTAL	95,906	479	294	95,906	479	294	479	294	

BUILDING ELEMENT	FIRE RESISTANCE RATING REQUIREMENTS FOR BUILDING ELEMENTS - TABLE 601					
	TYPE I	TYPE II	TYPE III	TYPE IV	TYPE V	TYPE VI
PRIMARY STRUCTURAL FRAME* (SEE SECTION 202)	3"	2"	1"	0"	0"	0"
BEARING WALLS EXTERIOR*	3"	2"	1"	0"	2"	1"
INTERIOR	3"	2"	1"	0"	2"	1"
NONBEARING WALLS AND PARTITIONS EXTERIOR	0"	0"	0"	0"	0"	0"
NONBEARING WALLS AND PARTITIONS INTERIOR	0"	0"	0"	0"	0"	0"
FLOOR CONSTRUCTION AND ASSOCIATED SECONDARY MEMBERS (SEE SECTION 202)	2"	2"	1"	0"	1"	0"
ROOF CONSTRUCTION AND ASSOCIATED SECONDARY MEMBER (SEE SECTION 202)	1 1/2"	1 1/2"	1 1/2"	0"	1 1/2"	0"

FIRE SEPARATION DISTANCE = X (FEET)	FIRE RESISTANCE RATING REQUIREMENTS FOR EXTERIOR WALLS - TABLE 602 ***					
	TYPE OF CONSTRUCTION	OCCUPANCY GROUP H*, L	OCCUPANCY GROUP F-1, M, S-1*	OCCUPANCY GROUP A, B, E, F-2, I, R*, S-2, U*	OCCUPANCY GROUP A, B, E, F-2, I, R*, S-2, U*	OCCUPANCY GROUP A, B, E, F-2, I, R*, S-2, U*
X<5'	ALL	3	2	1	1	1
5<X<10	IA, IB	2	2	2	1	1
10<X<30	IB, IIB	1	1	0	0	0
X<30	ALL	0	0	0	0	0

VICINITY MAP



DRAWING INDEX

ARCHITECTURAL	DWG.	SHEET INDEX
	A0.1	DRAWING INDEX & PROJECT DATA

CIVIL	C.I.	SHEET
	C2.01	CONCEPTUAL LIMITS OF IMPACT PLAN
	C3.01	CONCEPTUAL GRADING PLAN
	C4.01	CONCEPTUAL DRAINAGE PLAN
	C5.01	CONCEPTUAL UTILITY PLAN
	C6.01	CONCEPTUAL HORIZONTAL CONTROL & STRIPING PLAN

ARCHITECTURAL (CONT.)	A.	SHEET
	A0	SITE PLAN
	A1.1	EXISTING PLANS
	A2	TIER P1 FLOOR PLAN
	A3	TIER P2 FLOOR PLAN
	A4	TIER P3 FLOOR PLAN
	A5.1	VEHICLE TURNING EXHIBIT
	A5.2	VEHICLE BACKUP EXHIBIT
	A6	TIER P4 FLOOR PLAN
	A7	EXTERIOR ELEVATIONS
	A8	BUILDING SECTIONS

LANDSCAPE	L.	SHEET
	L1	CONCEPTUAL LANDSCAPE PLAN
	L2	TREE PLAN AND PLANT MATERIAL
	L3	IRRIGATION HYDROLOGE PLAN

IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA
RESIDENCES AT 4400 VON KARMAN
CONCEPTUAL GRADING PLAN

LEGAL DESCRIPTION

PARCEL 1:

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 91-155 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 266, PAGES 16 THROUGH 22 OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 2 OF PARCEL MAP NO. 91-155; THENCE ALONG THE NORTHEASTERLY LINE THEREOF NORTH 49°21'34" WEST 584.54 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 41°05'02" WEST 54.87 FEET; THENCE SOUTH 04°16'29" EAST 257.91 FEET; THENCE SOUTH 85°43'31" WEST 685.70 FEET TO A LINE PARALLEL WITH AND 1.00 FEET EASTERLY OF THE EASTERLY RIGHT-OF-WAY LINE OF VON KARMAN AVENUE AS SHOWN ON SAID PARCEL MAP NO. 91-155; THENCE ALONG SAID PARALLEL LINE NORTH 06°59'31" WEST 296.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 549.00 FEET; THENCE ALONG SAID CURVE NORTHEASTERLY 90.98 FEET THROUGH A CENTRAL ANGLE OF 09°29'40" TO THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" WEST 204.00 FEET"; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 274.72 FEET; THENCE NORTH 40°38'26" EAST 156.94 FEET TO THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" EAST 204.44 FEET"; THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 166.34 FEET; THENCE NORTH 40°38'26" EAST 284.73 FEET TO SAID NORTHEASTERLY LINE OF PARCEL 2; THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 49°21'34" EAST 157.28 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING: 4.51 ACRES, MORE OR LESS.

PARCEL 2:

THAT CERTAIN PARCEL OF LAND SITUATED IN THE CITY OF NEWPORT BEACH, COUNTY OF ORANGE, STATE OF CALIFORNIA, BEING THAT PORTION OF PARCEL 2 OF PARCEL MAP NO. 91-155 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 266, PAGES 16 THROUGH 22 OF PARCEL MAPS, TOGETHER WITH PARCEL 1 OF PARCEL MAP NO. 82-713 AS SHOWN ON A MAP THEREOF, FILED IN BOOK 181, PAGES 13 THROUGH 19 OF PARCEL MAPS, BOTH IN THE OFFICE OF THE COUNTY RECORDER OF SAID ORANGE COUNTY.

EXCEPTING THEREFROM THAT CERTAIN PARCEL DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEASTERLY CORNER OF SAID PARCEL 2 OF PARCEL MAP NO. 91-155; THENCE ALONG THE NORTHEASTERLY LINE THEREOF NORTH 49°21'34" WEST 584.54 FEET TO THE TRUE POINT OF BEGINNING; THENCE LEAVING SAID NORTHEASTERLY LINE SOUTH 41°05'02" WEST 54.87 FEET; THENCE SOUTH 04°16'29" EAST 257.91 FEET; THENCE SOUTH 85°43'31" WEST 685.70 FEET TO A LINE PARALLEL WITH AND 1.00 FEET EASTERLY OF THE EASTERLY RIGHT-OF-WAY LINE OF VON KARMAN AVENUE AS SHOWN ON SAID PARCEL MAP NO. 91-155; THENCE ALONG SAID PARALLEL LINE NORTH 06°59'31" WEST 296.00 FEET TO THE BEGINNING OF A TANGENT CURVE CONCAVE NORTHEASTERLY AND HAVING A RADIUS OF 549.00 FEET; THENCE ALONG SAID CURVE NORTHEASTERLY 90.98 FEET THROUGH A CENTRAL ANGLE OF 09°29'40" TO THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" WEST 204.00 FEET"; THENCE ALONG THE NORTHWESTERLY PROLONGATION OF THE SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 274.72 FEET; THENCE NORTH 40°38'26" EAST 156.94 FEET TO THE SOUTHWESTERLY LINE OF THAT CERTAIN PARCEL LABELED N.A.P. OF SAID PARCEL MAP NO. 91-155 HAVING A BEARING AND DISTANCE OF "NORTH 49°21'34" EAST 204.44 FEET"; THENCE ALONG SAID SOUTHWESTERLY LINE AND THE SOUTHEASTERLY LINE OF SAID N.A.P. PARCEL AND ITS NORTHEASTERLY PROLONGATION THROUGH THE FOLLOWING COURSES: SOUTH 49°21'34" EAST 166.34 FEET; THENCE NORTH 40°38'26" EAST 284.73 FEET TO SAID NORTHEASTERLY LINE OF PARCEL 2; THENCE ALONG SAID NORTHEASTERLY LINE SOUTH 49°21'34" EAST 157.28 FEET TO THE TRUE POINT OF BEGINNING.

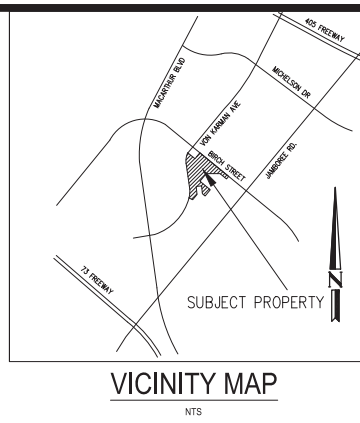
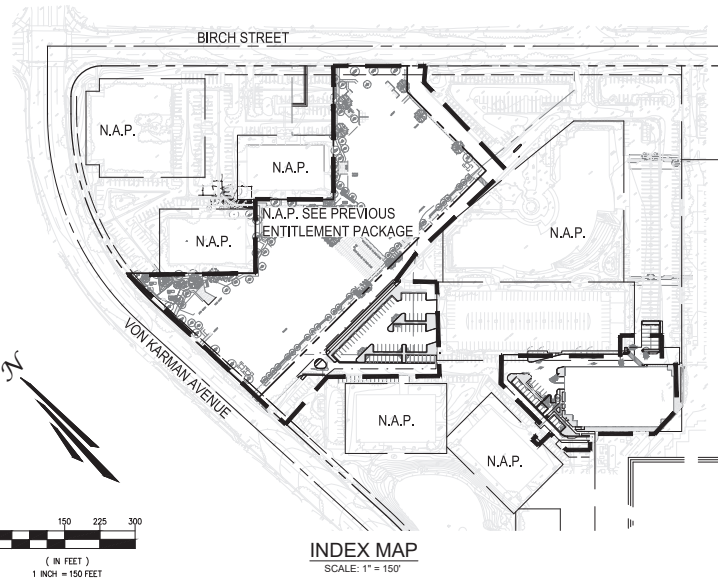
CONTAINING: 20.09 ACRES, MORE OR LESS.

BENCHMARK

DESCRIBED BY OCS 2001 - FOUND 3 3/4" OCS ALUMINUM BENCHMARK DISK STAMPED "32-13-70", SET IN THE TOP OF A 4 IN. BY 4 IN. CONCRETE POST. MONUMENT IS LOCATED IN THE SOUTHERLY CORNER OF THE INTERSECTION OF JAMBORREE ROAD AND FAIRCHILD, 72.3 FT. WESTERLY OF THE CENTERLINE OF FAIRCHILD AND 57.2 FT. SOUTHERLY OF THE CENTER OF THE CENTER MEDIAN ALONG MACARTHUR, 2.8 FT. WESTERLY OF THE WEST END OF THE SOUTHWEST CURB RETURN. MONUMENT IS DOWN 0.1 FT. FROM THE TOP OF CURB. ELEVATION: 54.54 (NAVD88)

BASIS OF BEARINGS

THE BEARINGS SHOWN HEREON ARE BASED ON THE LINE BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 617581 AND STATION GPS NO. 616681 BEING N06°59'37"W PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR, BASED ON THE CALIFORNIA COORDINATE SYSTEM (CCS83) ZONE VI, NAD 1983 (2007.00 EPOCH OCS GPS ADJUSTMENT).



APPLICANT

TPG (KCN) ACQUISITION, LLC
 5000 BIRCH ST, SUITE 600
 NEWPORT BEACH, CA 92660
 (949) 267-1529

CIVIL

TAT & ASSOCIATES
 701 N. PARKCENTER DR.
 SANTA ANA, CA 92705
 (714) 560-8200

FLOOD NOTE

PER FEMA MAP PANEL 286 OF 539, MAP NUMBER 06059C0286J DATED DECEMBER 3, 2009, SUBJECT PROPERTY IS DETERMINED TO BE ZONE X - AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN.

SHEET INDEX

SHEET TITLE	SHEET NUMBER
TITLE SHEET	C1.01
CONCEPTUAL LIMITS OF IMPACT PLAN	C2.01
CONCEPTUAL GRADING PLAN	C3.01
CONCEPTUAL DRAINAGE PLAN	C4.01
CONCEPTUAL UTILITY PLAN	C5.01
CONCEPTUAL HORIZONTAL CONTROL & STRIPING PLAN	C6.01

UTILITY COMPANIES:

AT&T SOUTHERN CALIFORNIA GAS COMPANY
 PHONE: (800) 288-2020
 LINK: AT&T U-V-VERSE
 CENTRALIZED CORRESPONDENCE
 MONTEREY PARK, CA 91756
 PHONE: (800) 427-2200

ORAR ENVIRONMENTAL SERVICES
 2051 PLACENTIA AVE.
 COSTA MESA, CA 92627
 PHONE: (949) 625-6735

TIME WARNER CABLE
 5260 TOPANGA CANYON BLVD.
 CHATSWORTH, CA 91311
 PHONE: (800) 892-2253

NEWPORT BEACH CITY UTILITIES
 WATER DEPARTMENT
 949 W. 16TH STREET
 NEWPORT BEACH, CA 92663
 PHONE: (949) 644-3011

SOUTHERN CALIFORNIA EDISON
 P.O. BOX 800
 RANCHO CUCAMONGA, CA 91770
 PHONE: (800) 655-4555

EARTHWORK

STATEMENT OF QUANTITIES:
 CUT: 100,593 CUBIC YARDS + 438 CUBIC YARDS (STORMWATER DETENTION VOLUME)
 FILL: 516 CUBIC YARDS
 NET: 100,515 CUBIC YARDS (EXPORT)

NOTE: THE QUANTITIES AS SHOWN HEREON ARE FOR PERMIT AND/OR BONDING PURPOSES ONLY FOR THE ENTIRE DEVELOPMENT. THE GRADING CONTRACTOR SHALL BE RESPONSIBLE FOR VERIFICATION OF QUANTITIES PRIOR TO THE START OF GRADING AND ACCOUNT FOR DISTRIBUTING ANY EXCESS MATERIAL OR SUPPLYING ANY DEFICIENCIES TO BRING SITE TO DESIGN GRADE. THE ABOVE CUT AND FILL FIGURES REPRESENT PURE VOLUME FIGURES ONLY. THERE IS NO CONSIDERATION TAKEN FOR SHRINKAGE, SUBSIDENCE, OR ANY OTHER LOSS FACTOR. THE CONTRACTOR'S BID WILL BE THE SOLE BASIS FOR ALL PAYMENTS FOR WORK DONE.

NO.	DATE	CHK NO.	DESCRIPTION	REVISIONS

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 Santa Ana, CA 92705
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Since 1964



TITLE SHEET
 RESIDENCES AT 4400 VON KARMAN
 CITY OF NEWPORT BEACH
 TPG (KCN) ACQUISITION, LLC
 NEWPORT BEACH, CA 92660

DRAWN BY	7/2021
CHECKED BY	OS
DATE	6/2/2021
REVISION #	#
DATE	DATE
BY	BY
NO.	NO.

C1.01

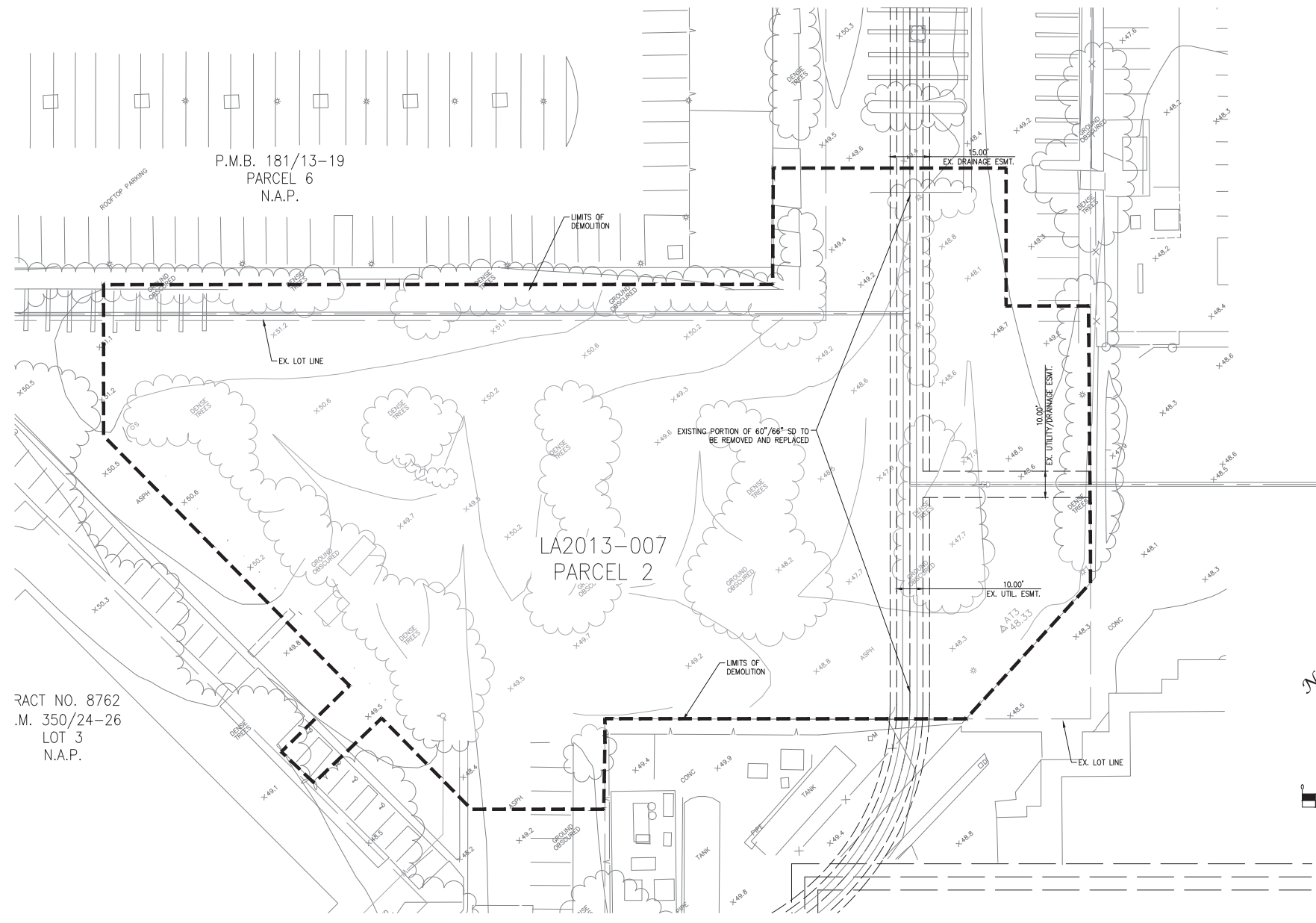
UNDERGROUND SERVICE ALERT

 Call: TOLL FREE
 1-800-422-4133
 KNOW WHAT'S BELOW.
 CALL BEFORE YOU DIG.
 TWO WORKING DAYS BEFORE YOU DIG

UNAUTHORIZED CHANGES & USES:
 THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS. CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.

ENGINEERS NOTE TO CONTRACTOR:
 THE EXISTENCE AND LOCATION OF ANY UNDERGROUND UTILITIES, PIPES, AND/OR STRUCTURES SHOWN ON THESE PLANS WERE OBTAINED BY A SEARCH OF AVAILABLE RECORDS. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO EXISTING UTILITIES EXCEPT AS SHOWN ON THESE PLANS. THE CONTRACTOR SHALL ASCERTAIN THE TRUE VERTICAL AND HORIZONTAL LOCATION OF THOSE UNDERGROUND UTILITIES TO BE USED AND SHALL BE RESPONSIBLE FOR ANY DAMAGE TO ANY PUBLIC OR PRIVATE UTILITIES SHOWN OR NOT SHOWN HEREON. IF THE CONTRACTOR ENCOUNTERS ANY DISCREPANCIES, CONFLICTS OR AREAS WHICH HE FEELS UNWORKABLE, HE SHALL NOTIFY THE GRADING ENGINEER IMMEDIATELY PRIOR TO CONTINUING OR DEMATING FROM THIS PLAN.

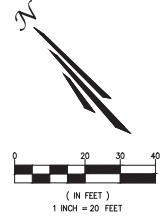
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LEGEND

- - - - - EXISTING CONTOURS
- +—+—+— CENTERLINE
- +—+—+— RIGHT OF WAY / PROPERTY LINE
- +—+—+— CITY EASEMENT LINE
- SS EXISTING SANITARY SEWER
- +—+—+— EXISTING STORM DRAIN
- W EXISTING WATER
- - - - - LIMIT OF DEMOLITION
- +++++ REMOVE EXISTING UTILITY PIPE

NOTE:
 REMOVE AND DISPOSE ALL EXISTING SURFACE IMPROVEMENTS AND ALL CONFLICTING SUBSURFACE IMPROVEMENTS WITHIN LIMITS OF DEMOLITION. ITEMS TO BE PROTECTED IN PLACE ARE NOTED PER PLAN.



TRACT NO. 8762
 .M. 350/24-26
 LOT 3
 N.A.P.

P.M.B. 181/13-19
 PARCEL 6
 N.A.P.

LA2013-007
 PARCEL 2

UNDERGROUND SERVICE ALERT

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 1-800-422-4133
 KNOW WHAT'S BELOW.
 CALL BEFORE YOU DIG.
 TWO WORKING DAYS BEFORE YOU DIG.

UNAUTHORIZED CHANGES & USES:
 THE ENGINEER PREPARING THESE PLANS WILL NOT BE RESPONSIBLE FOR, OR LIABLE FOR, UNAUTHORIZED CHANGES TO OR USES OF THESE PLANS. ALL CHANGES TO THE PLANS MUST BE IN WRITING AND MUST BE APPROVED BY THE PREPARER OF THESE PLANS. CONSTRUCTION CONTRACTOR AGREES THAT IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES, CONSTRUCTION CONTRACTOR WILL BE REQUIRED TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION OF THE PROJECT, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL BE MADE TO APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS, AND CONSTRUCTION CONTRACTOR FURTHER AGREES TO DEFEND, INDEMNIFY AND HOLD DESIGN PROFESSIONAL HARMLESS FROM ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH THE PERFORMANCE OF WORK ON THIS PROJECT, EXCEPT LIABILITY ARISING FROM THE SOLE NEGLIGENCE OF DESIGN PROFESSIONAL.

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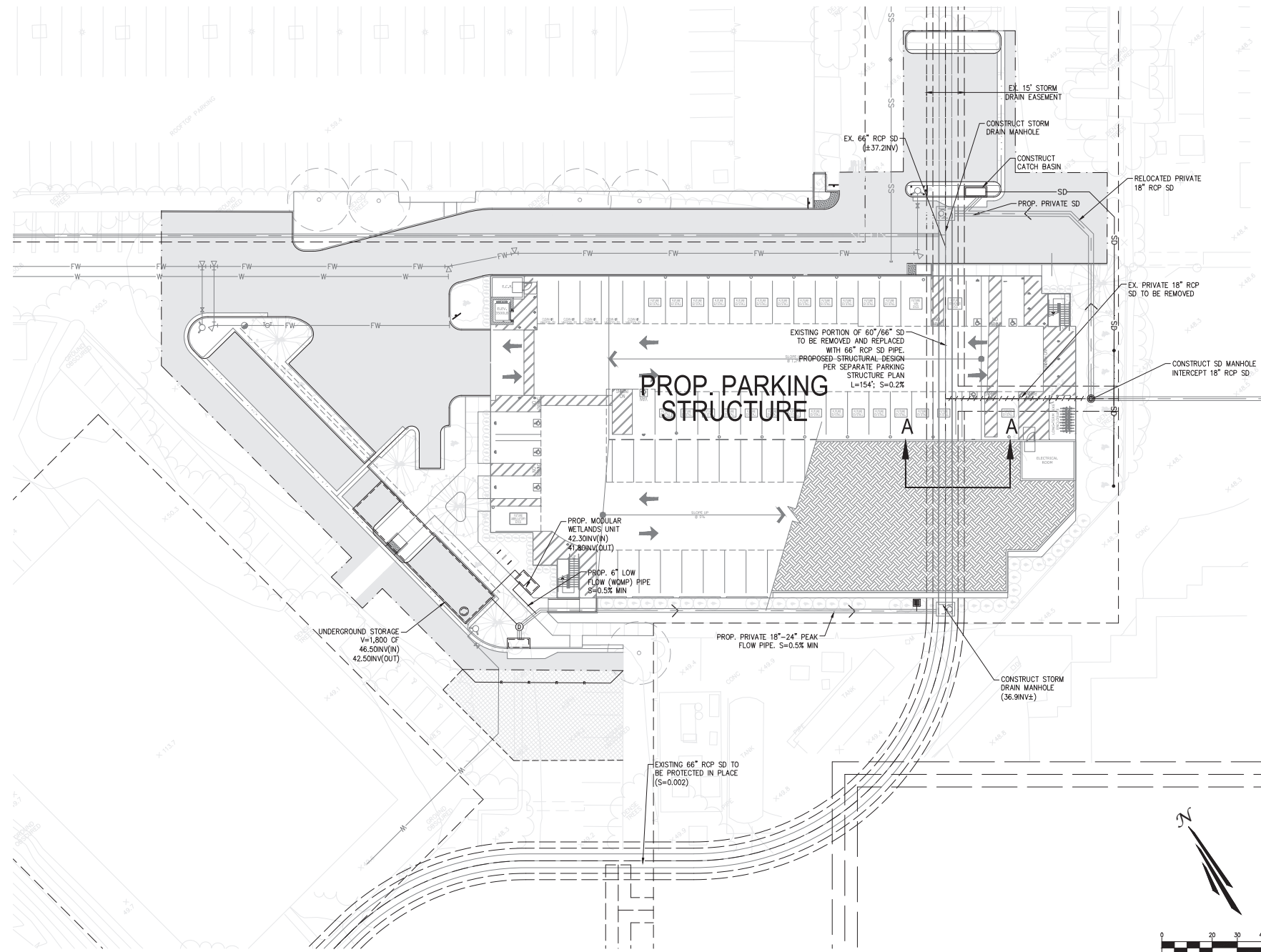
NO.	DATE	CHK. NO.	DESCRIPTION	REVISIONS

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<p>TAIT Since 1944</p>	<p>CONCEPTUAL LIMITS OF IMPACT PLAN RESIDENCES AT 4400 VON KARMAN CITY OF NEWPORT BEACH TPG (KCN) ACQUISITION, LLC 4400 VON KARMAN NEWPORT BEACH, CA 92660</p>
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DRAWN BY: JG DATE: 6/2/2021 CHECKED BY: DS DATE: 6/2/2021 REVISION # 1 DATE: 6/2/2021 JOB NO: 2021-001	PLOTTED: 12/6/2021 8:11:47 AM BY: David Scan PAGESETUP: ----- PLOTSTYLE: Tai2014.ctb
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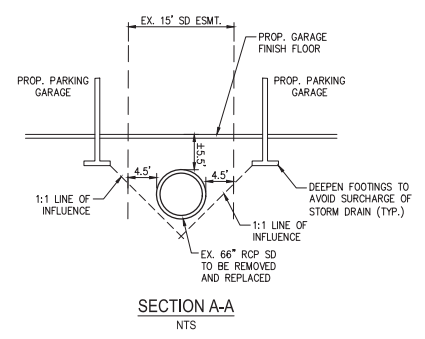
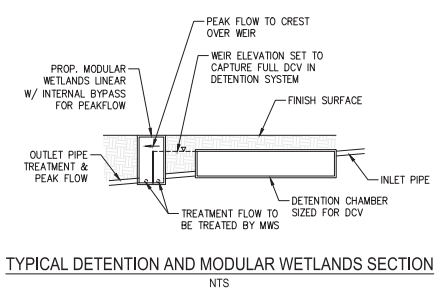
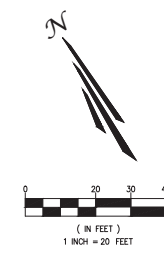
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LEGEND

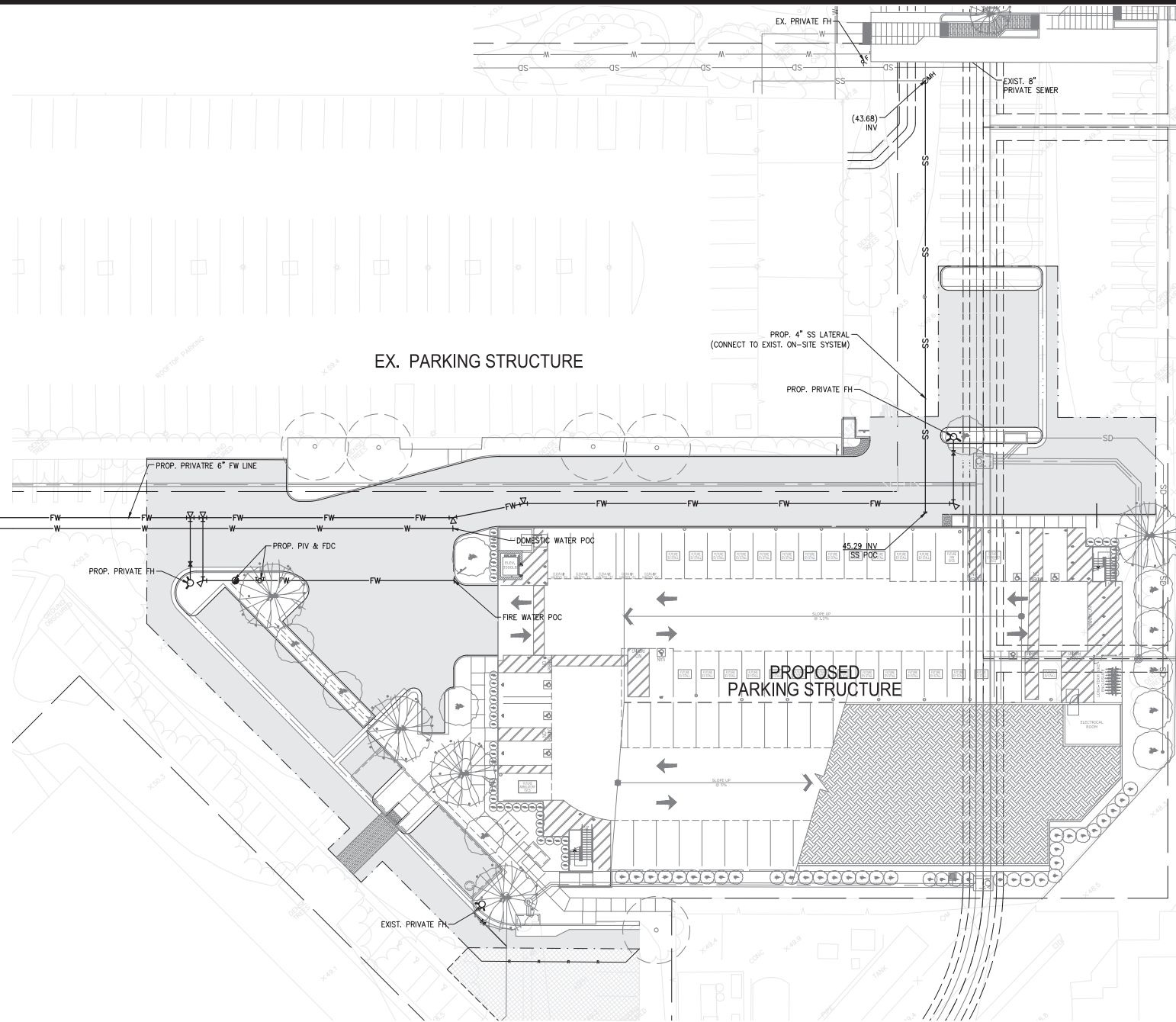
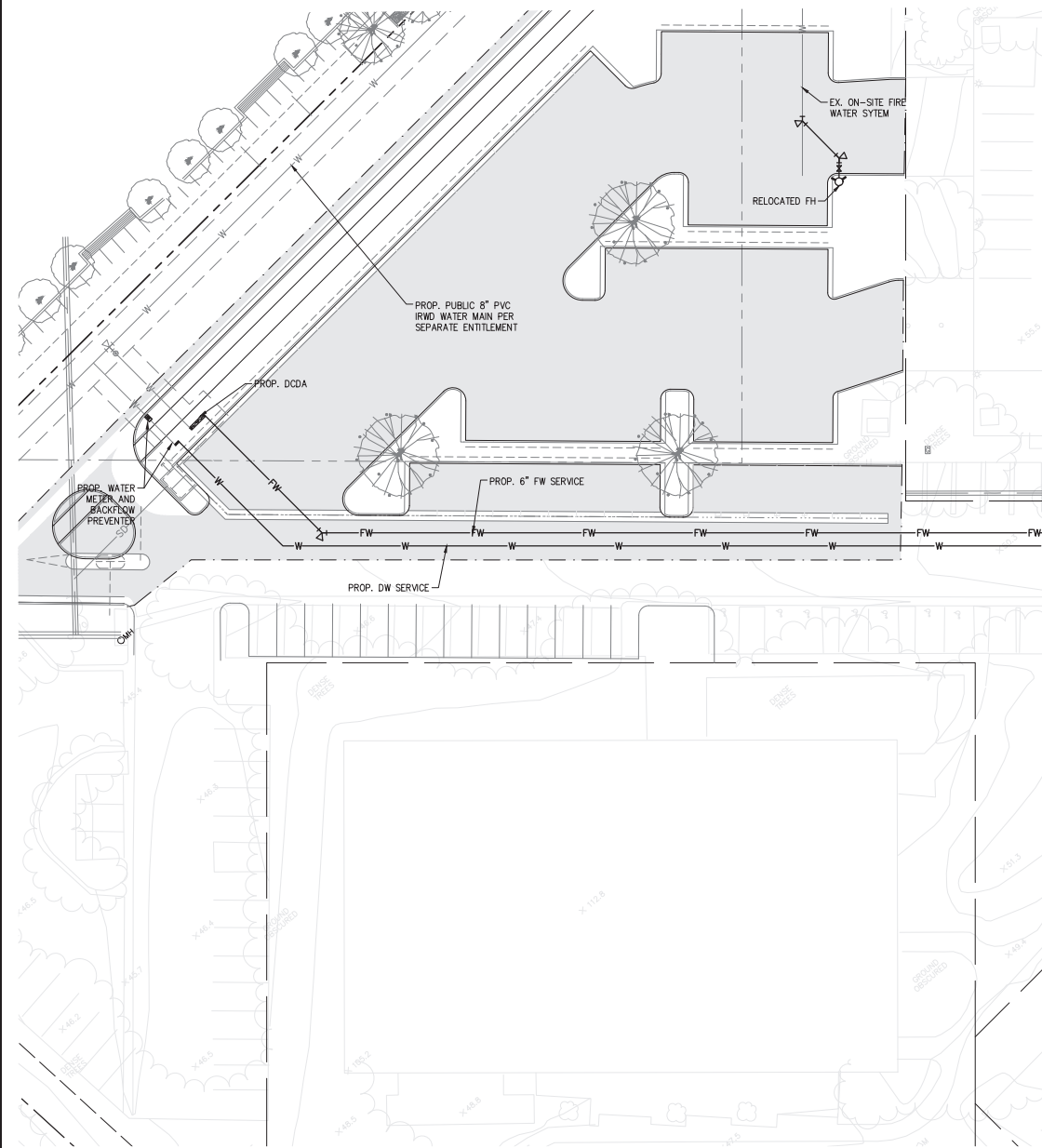
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---	PROPOSED CONTOURS	FF	FINISH FLOOR
---	CENTERLINE	GFF	GARAGE FINISH FLOOR
---	RIGHT OF WAY	CL	CENTER LINE
---	PROPERTY LINE	PL	PROPERTY LINE
---	CITY EASEMENT LINE	R/W	RIGHT-OF-WAY
---	PROPOSED CURB	PA	PLANTED AREA
---	EXISTING CURB	PP	POWER POLE
---	RIDGE LINE/ GRADE BREAK	FS	FINISHED SURFACE
---	PROPOSED FIRE WATER LINE	TC	TOP OF CURB
---	PROPOSED SANITARY SEWER	TG	TOP OF GRADE
---	PROPOSED WATER	SS	SANITARY SEWER
---	PROPOSED STORM DRAIN	SD	STORM DRAIN
---	EXISTING SANITARY SEWER	DW	DOMESTIC WATER
---	EXISTING STORM DRAIN	FW	RECLAIMED WATER
---	EXISTING WATER	DCDA	DOUBLE CHECK DETECTOR ASSEMBLY
---		FH	FIRE HYDRANT
		ST	STREET LIGHT
		EV	ELECTRIC VEHICLE
		MWS	MODULAR WETLAND SYSTEM
		(C)	EXISTING
		(P)	PROPOSED
		⊕	EXISTING FIRE HYDRANT
		⊕	PROPOSED FIRE HYDRANT
		⊕	WATER VALVE
		⊕	PROPOSED STORM DRAIN MANHOLE

NOTE:
 * UNDERGROUND STORAGE IS SCHEMATICALLY SHOWN. FINAL SYSTEM TO BE MODIFIED TO AVOID CONFLICT WITH TREES

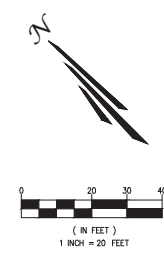


701 N. Polk Center Drive Santa Ana, CA 92705 P: 714.550.8300 F: 714.550.0211 www.tait.com Los Angeles Sacramento San Francisco Dallas Phoenix San Diego Ontario San Diego				
CONCEPTUAL STORM DRAIN PLAN RESIDENCES AT 4400 VON KARMAN CITY OF NEWPORT BEACH				
DRAWN: JLT CHECKED: DS DATE: 6/2/2021 REVISION #:# DATE DATE #:# JOB NO: ###				
C4.01				

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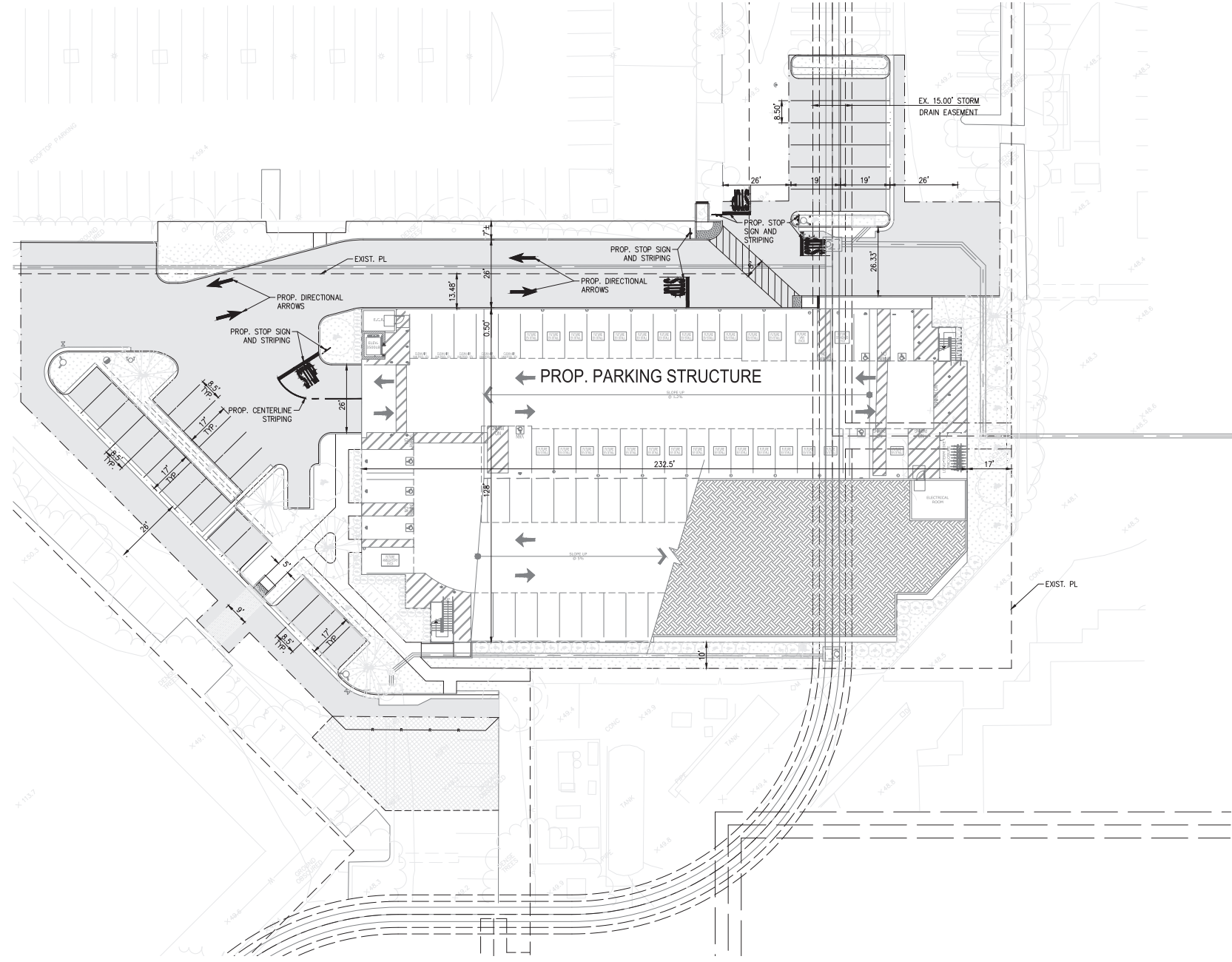
CONCEPTUAL UTILITY NOTES:
 1. SEWER: PROPOSED SEWER CONNECTION WILL BE TO EXISTING ON-SITE SEWER MANHOLE AND LATERAL. NO NEW SEWER LATERAL CONNECTIONS ARE PROPOSED.



LEGEND			
---	EXISTING CONTOURS	WM	WATER METER
---	PROPOSED CONTOURS	FF	FINISH FLOOR
---	CENTERLINE	GFF	GARAGE FINISH FLOOR
---	RIGHT OF WAY	CL	CENTER LINE
---	PROPERTY LINE	PL	PROPERTY LINE
---	CITY EASEMENT LINE	R/W	RIGHT-OF-WAY
---	PROPOSED CURB	PA	PLANTED AREA
---	EXISTING CURB	PP	POWER POLE
---	RIDGE LINE / GRADE BREAK	FS	FINISHED SURFACE
---	PROPOSED FIRE WATER LINE	TC	TOP OF CURB
---	PROPOSED SANITARY SEWER	TG	TOP OF GRADE
---	PROPOSED WATER	SS	SANITARY SEWER
---	PROPOSED STORM DRAIN	SD	STORM DRAIN
---	EXISTING SANITARY SEWER	DW	DOMESTIC WATER
---	EXISTING STORM DRAIN	RW	RECLAIMED WATER
---	EXISTING WATER	DCDA	DOUBLE CHECK DETECTOR ASSEMBLY
---	MATCH LINE	FH	FIRE HYDRANT
---	PROPOSED LANDSCAPE	ST	STREET LIGHT
---		EV	ELECTRIC VEHICLE
---		CAV	CLEAN AIR VEHICLE
---		(E)	EXISTING
---		(P)	PROPOSED
---		(FH)	EXISTING FIRE HYDRANT
---		(FW)	PROPOSED FIRE HYDRANT
---		(WV)	WATER VALVE
---		(M)	PROPOSED STORM DRAIN MANHOLE

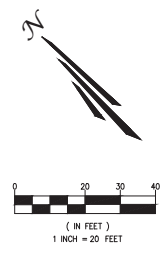
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CONCEPTUAL UTILITY PLAN RESIDENCES AT 4400 VON KARMAN CITY OF NEWPORT BEACH	
TPG (KCN) ACQUISITION, LLC 10000 WILSON AVENUE, SUITE 100 NEWPORT BEACH, CA 92660	
DRAWN BY: JF/2021 CHECKED BY: OS REVISION # 1 DATE: 8/2/2021	BY: DATE DESCRIPTION REVISIONS
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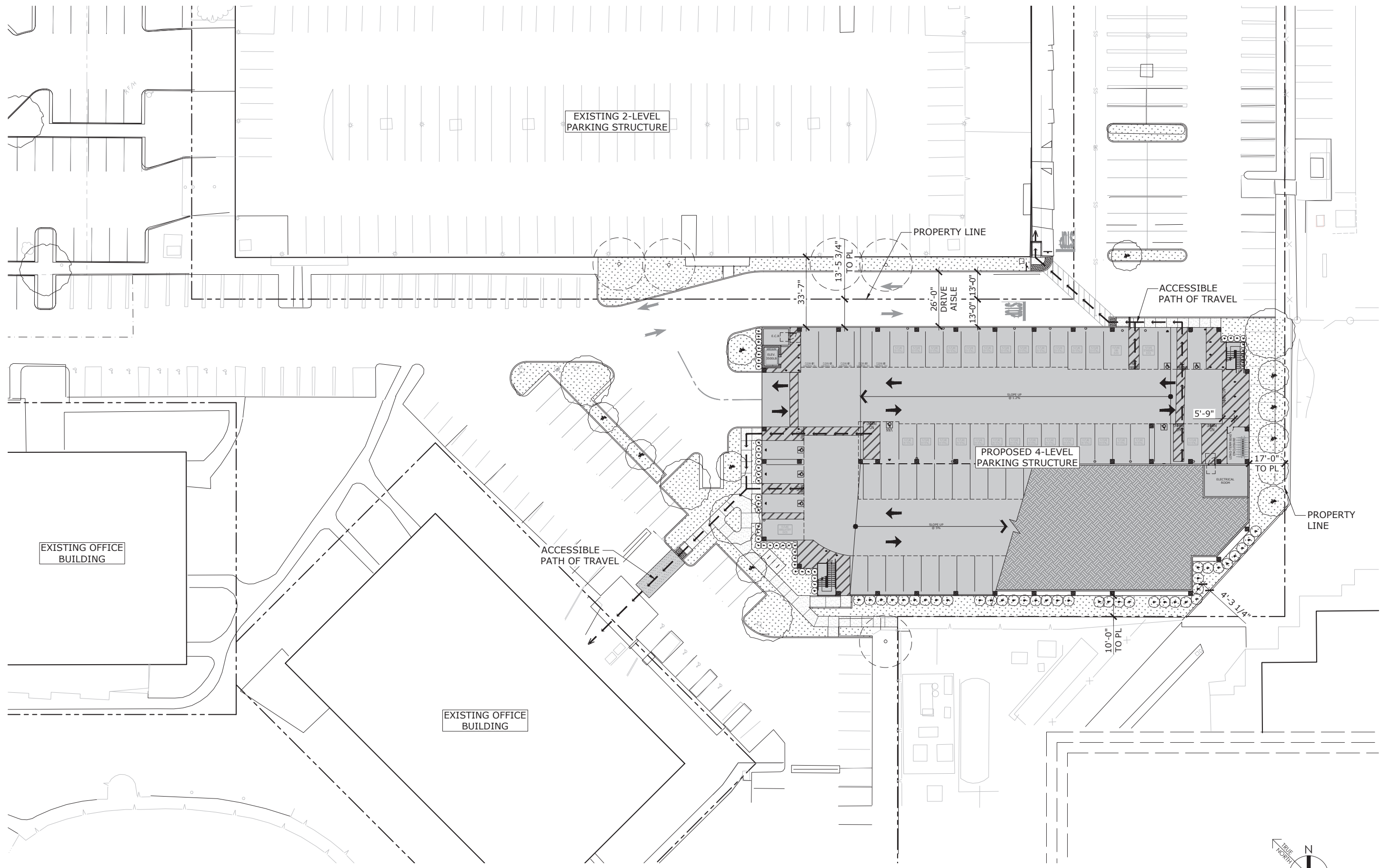


LEGEND

---33---	EXISTING CONTOURS	WM	WATER METER
---33---	PROPOSED CONTOURS	FF	FINISH FLOOR
---	CENTERLINE	GFF	GARAGE FINISH FLOOR
---	RIGHT OF WAY	C	CITY EASEMENT
---	PROPERTY LINE	R/W	RIGHT-OF-WAY
---	CITY EASEMENT LINE	PA	PLANTED AREA
---	PROPOSED CURB	PP	POWER POLE
---	EXISTING CURB	FS	FINISHED SURFACE
R---	RIDGE LINE / GRADE BREAK	TC	TOP OF CURB
FW---	PROPOSED FIRE WATER LINE	TG	TOP OF GRATE
SS---	PROPOSED SANITARY SEWER	SS	SANITARY SEWER
W---	PROPOSED WATER	SD	STORM DRAIN
---	PROPOSED STORM DRAIN	DW	DOMESTIC WATER
SS---	EXISTING SANITARY SEWER	RW	RECLAIMED WATER
---	EXISTING STORM DRAIN	DCDA	DOUBLE CHECK DETECTOR ASSEMBLY
W---	EXISTING WATER	FH	FIRE HYDRANT
---	PROPOSED LANDSCAPE	ST	STREET LIGHT
		EV	ELECTRIC VEHICLE
		MWS	MODULAR WETLAND SYSTEM
		(E)	EXISTING
		(P)	PROPOSED
		∇	EXISTING FIRE HYDRANT
		∇	PROPOSED FIRE HYDRANT
		⊕	WATER VALVE
		⊕	PROPOSED STORM DRAIN MANHOLE



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CONCEPTUAL HORIZONTAL CONTROL & STRIPING PLAN RESIDENCES AT 4400 VON KARMAN <small>TPG (KCN) ACQUISITION, LLC 10000 VON KARMAN BLVD NEWPORT BEACH, CA 92660</small>							
<small>DRAWN BY: 1/2/2021 CHECKED: DS DATE: 8/2/2021 REVISION #: DATE: DATE PLOT NO: ###</small>	<small>K:\Drawings\SP\SP8507 - Newport Beach\VNC\Conceptual Plans\Parking\Conceptual\SP8507-HCP.dwg PLOTTED: 12/6/2021 8:12:05 AM BY: David Sloan PAGESETUP: ----- PLOTSTYLE: Tait2014.ctb</small>						
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4400 VON KARMAN PARKING STRUCTURE

NEWPORT BEACH, CA

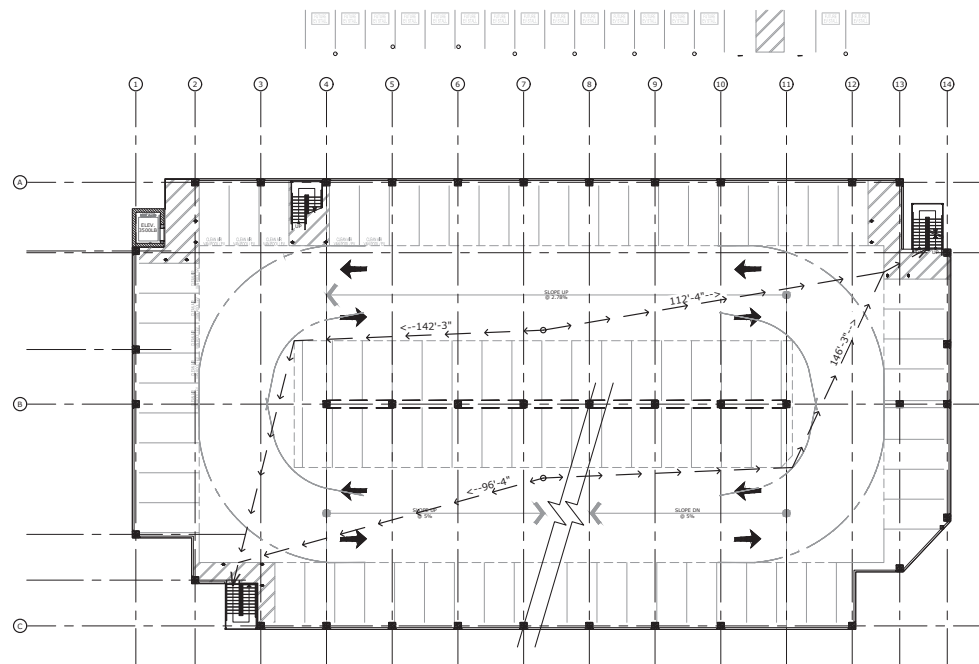
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SITE PLAN

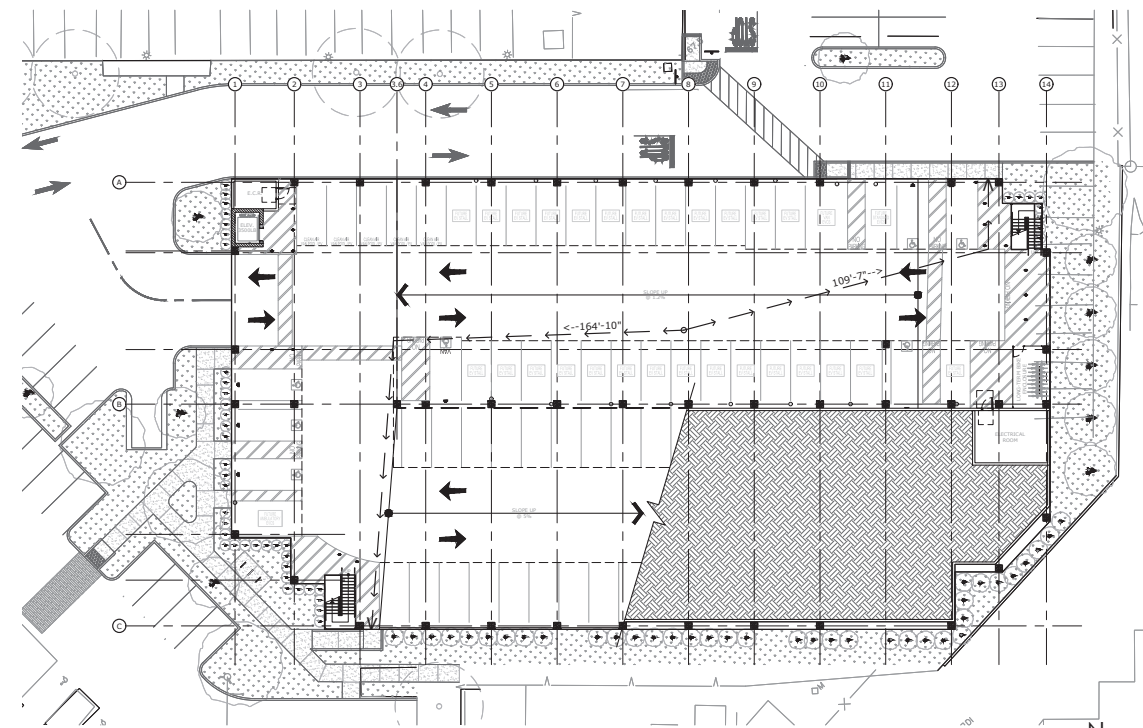
A0

parking counts and area are preliminary and may change upon governing agencies and owner review
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 11.09.21

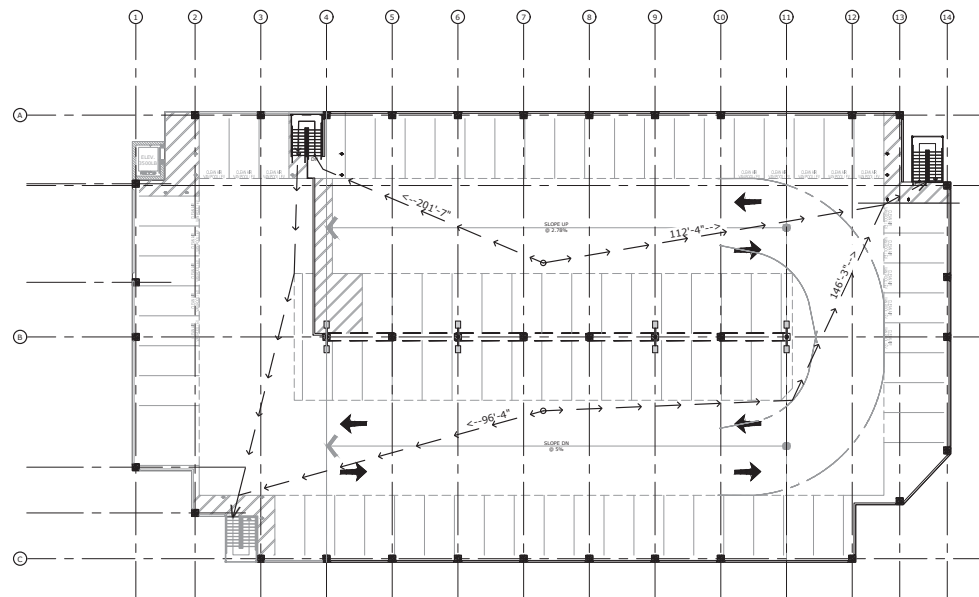




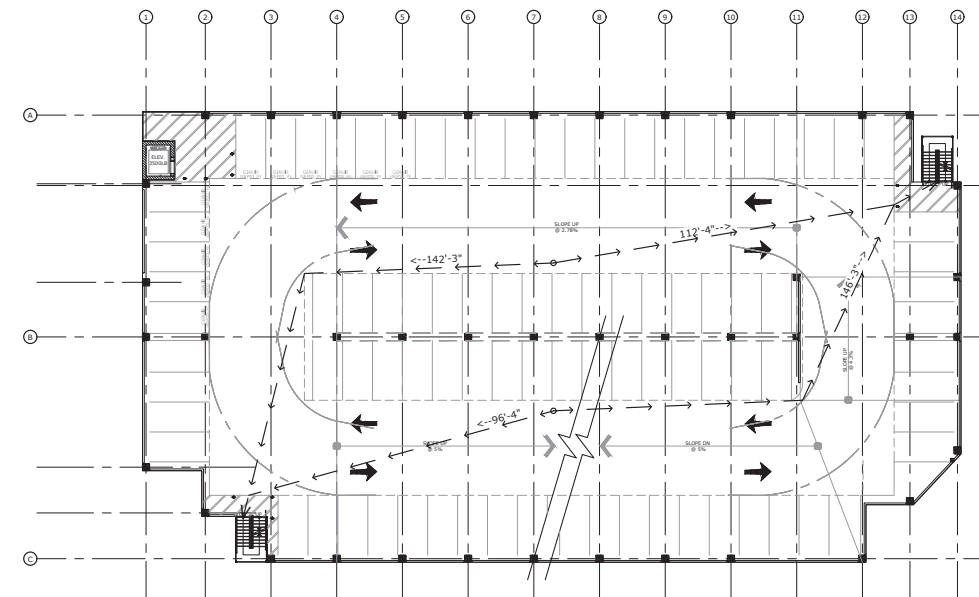
TIER P3 FLOOR PLAN
SCALE: 1:20



TIER P1 FLOOR PLAN
SCALE: 1:20

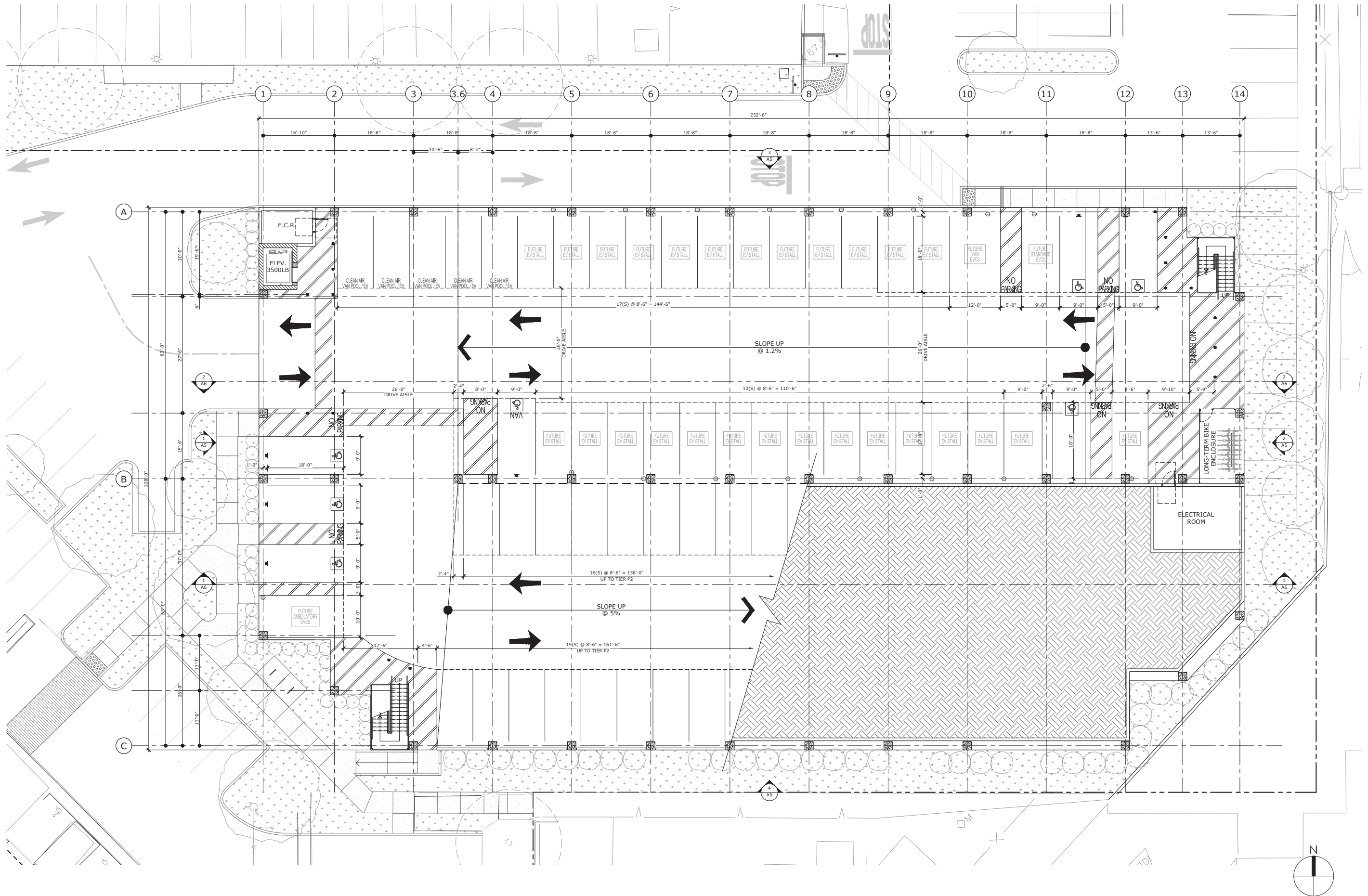


TIER P4 FLOOR PLAN
SCALE: 1:20



TIER P2 FLOOR PLAN
SCALE: 1:20





4400 VON KARMAN PARKING STRUCTURE

NEWPORT BEACH, CA

TIER P1 FLOOR PLAN

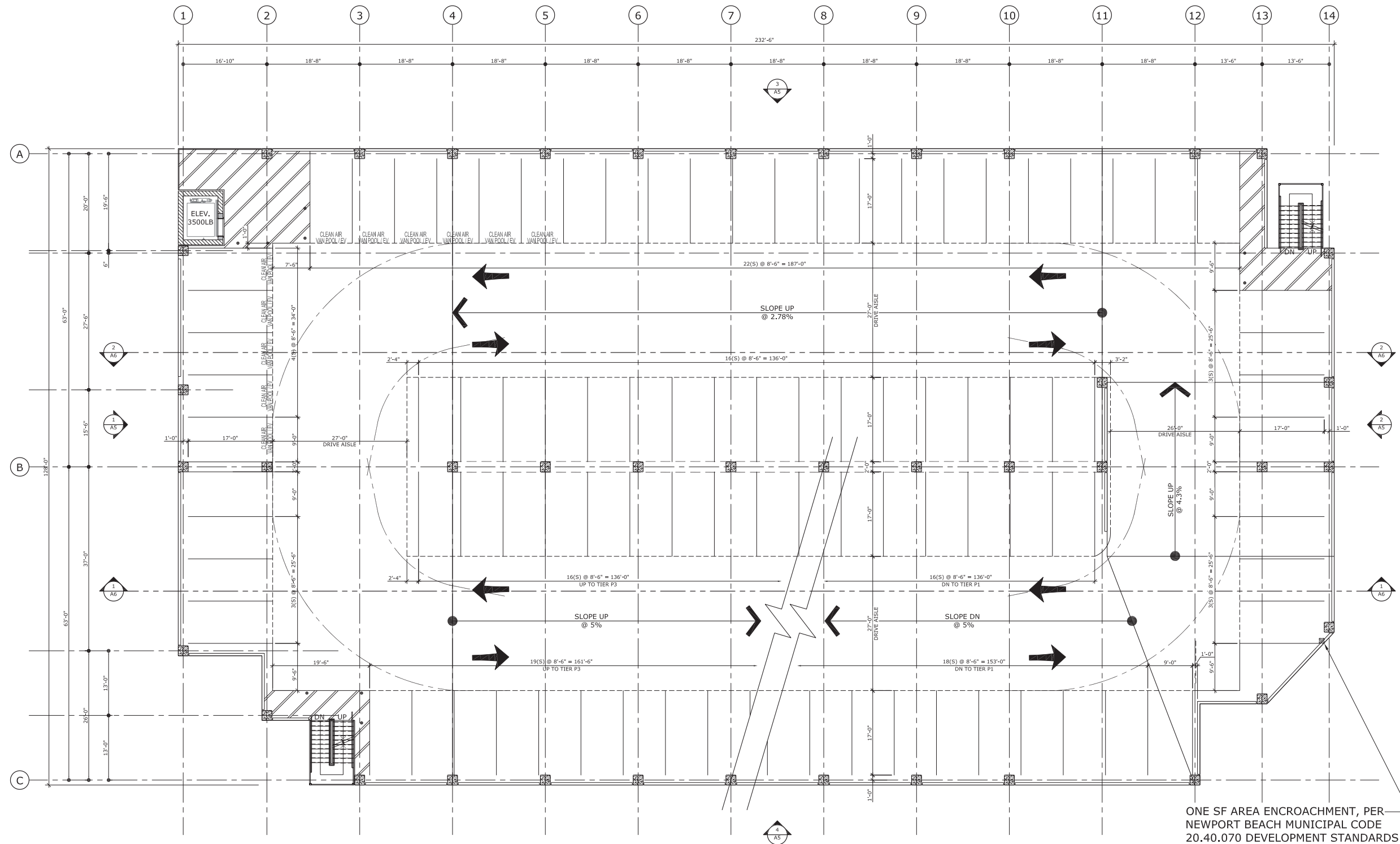
A1

parking counts and area are preliminary and may change upon governing agencies and owner review
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SCALE: 1/8" = 1'-0"

11.09.21





ONE SF AREA ENCROACHMENT, PER NEWPORT BEACH MUNICIPAL CODE 20.40.070 DEVELOPMENT STANDARDS FOR PARKING AREAS SECTION C.2.3.

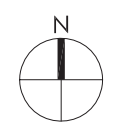
4400 VON KARMAN PARKING STRUCTURE
NEWPORT BEACH, CA

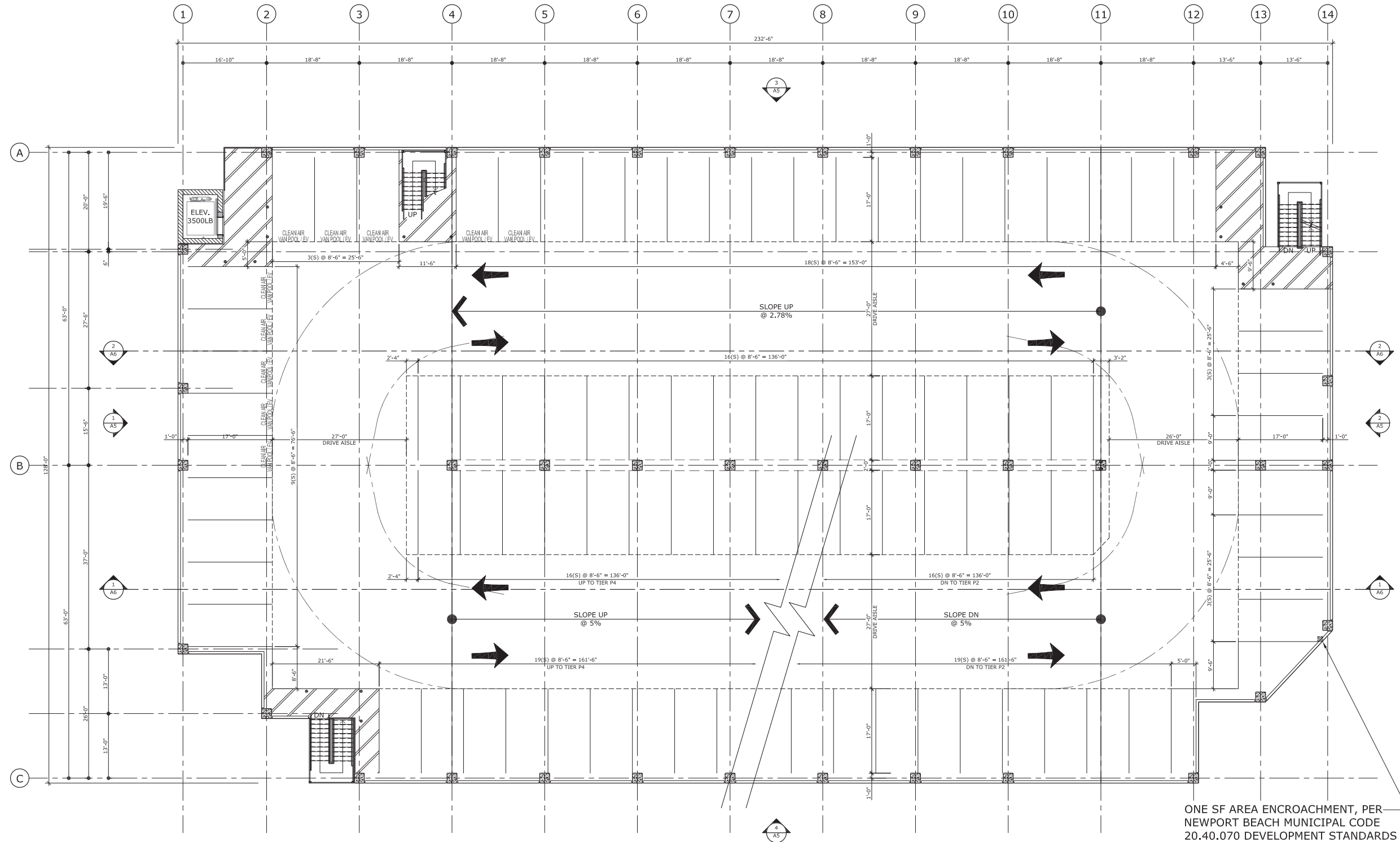
TIER P2 FLOOR PLAN

A2

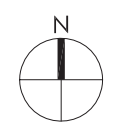
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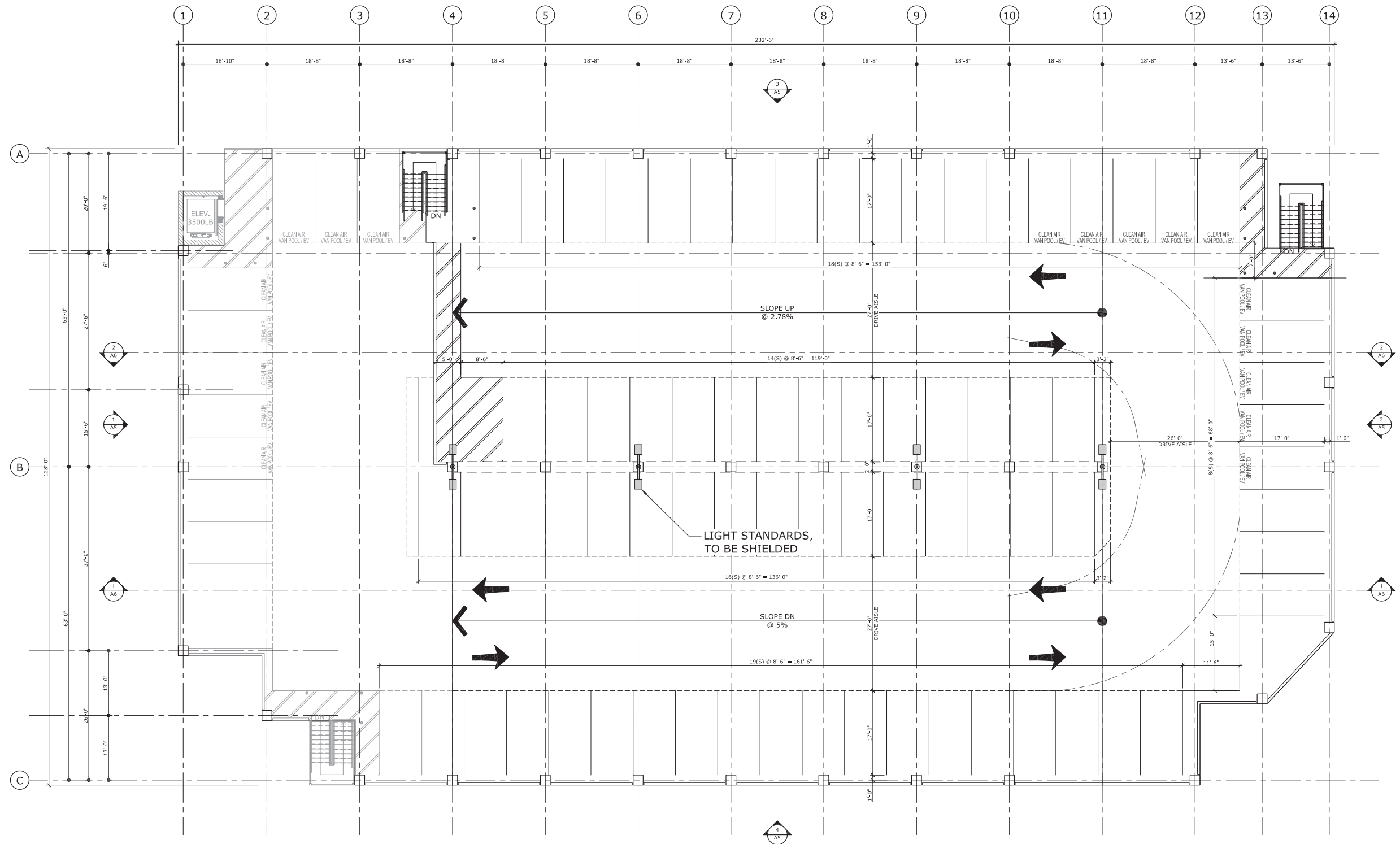
parking counts and area are preliminary and may change upon governing agencies and owner review
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ONE SF AREA ENCROACHMENT, PER NEWPORT BEACH MUNICIPAL CODE 20.40.070 DEVELOPMENT STANDARDS FOR PARKING AREAS SECTION C.2.3.





4400 VON KARMAN PARKING STRUCTURE

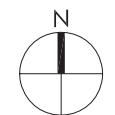
NEWPORT BEACH, CA

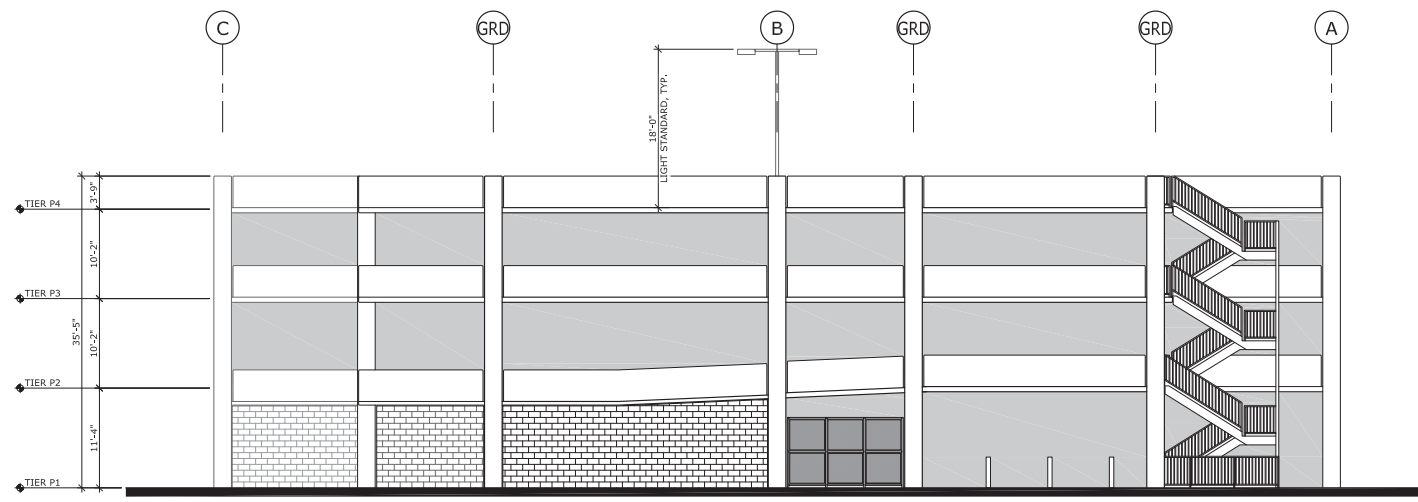
TIER P4 FLOOR PLAN

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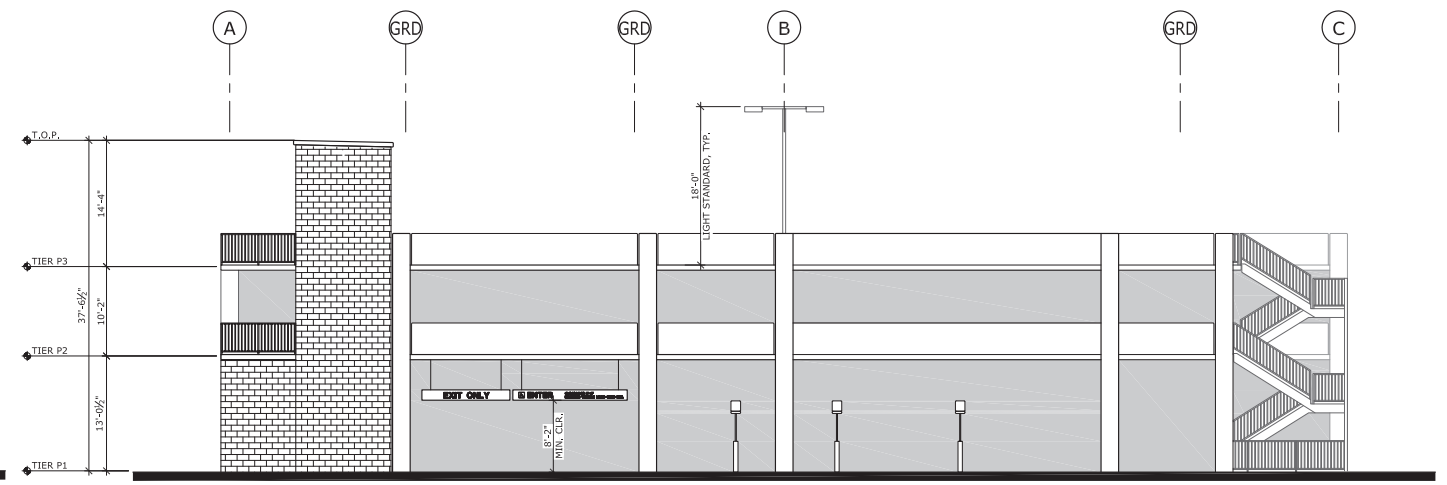
parking counts and area are preliminary and may change upon governing agencies and owner review
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SCALE: 1/8" = 1'-0"

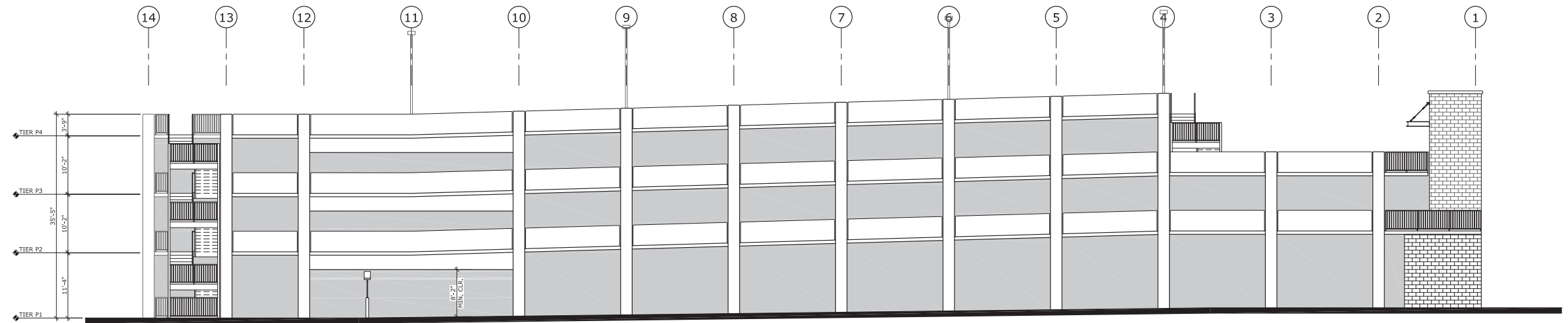




2 EAST ELEVATION
SCALE = 1/8" = 1'-0"

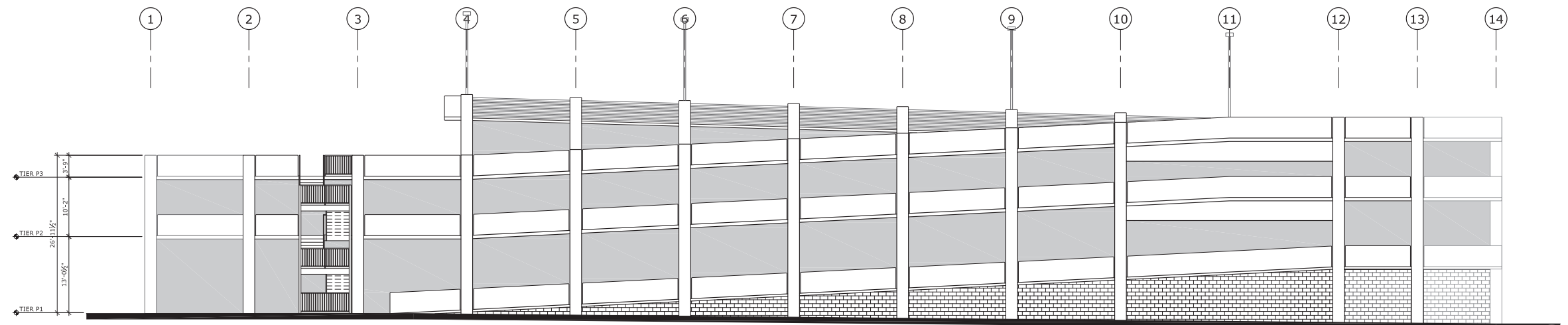


1 WEST ELEVATION
SCALE = 1/8" = 1'-0"

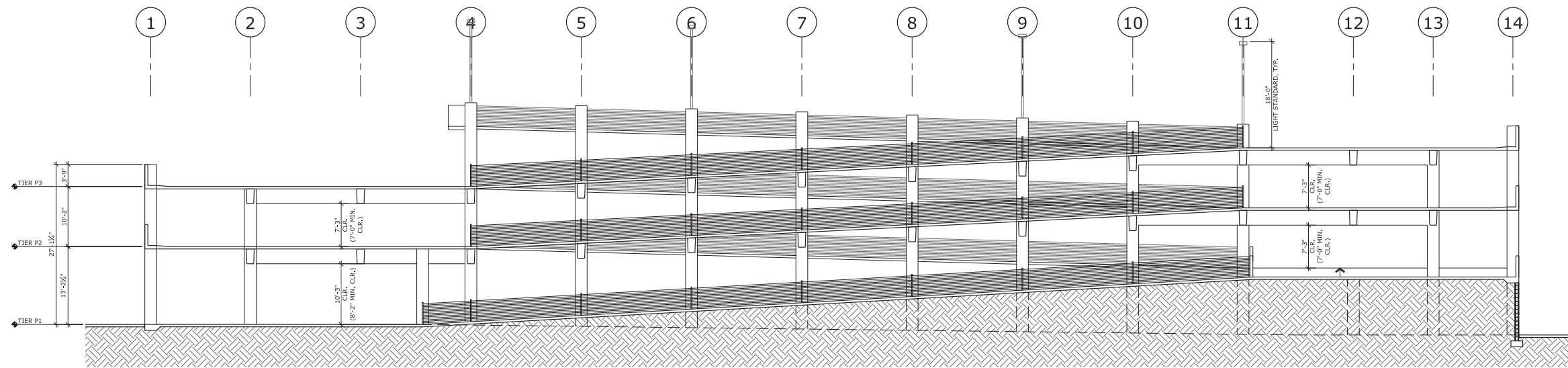


3 NORTH ELEVATION
SCALE = 1/8" = 1'-0"

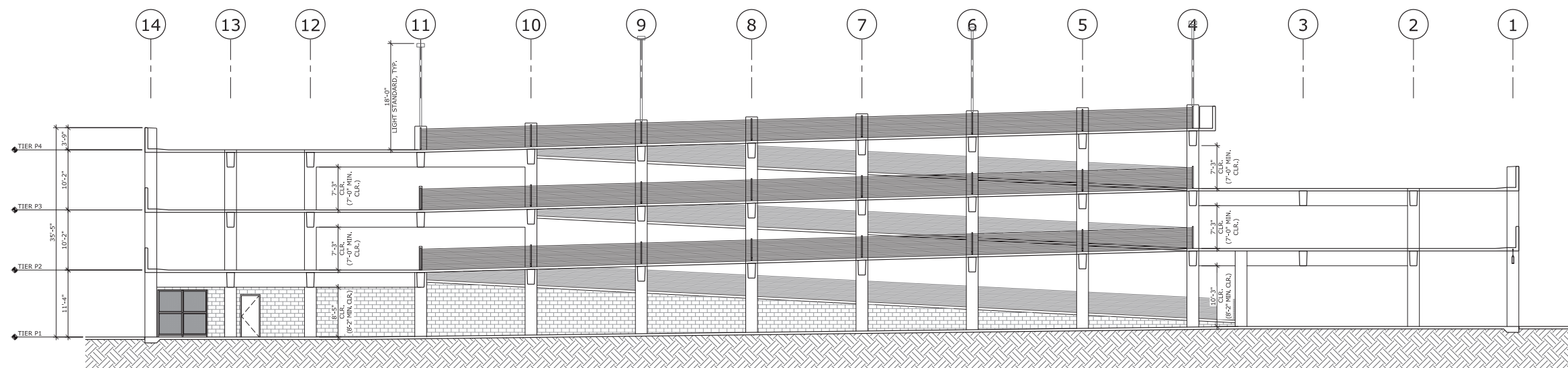
NOTES:
 • ALL EXTERIOR SURFACES TO BE PAINTED.
 a. CMU SURFACES TO BE PAINTED "LITE GRAY" (SW 7029)
 b. CONCRETE SURFACES TO BE PAINTED "LITE GRAY" (SW 7029)
 • ROOF LIGHT STANDARDS TO BE SHIELDED.



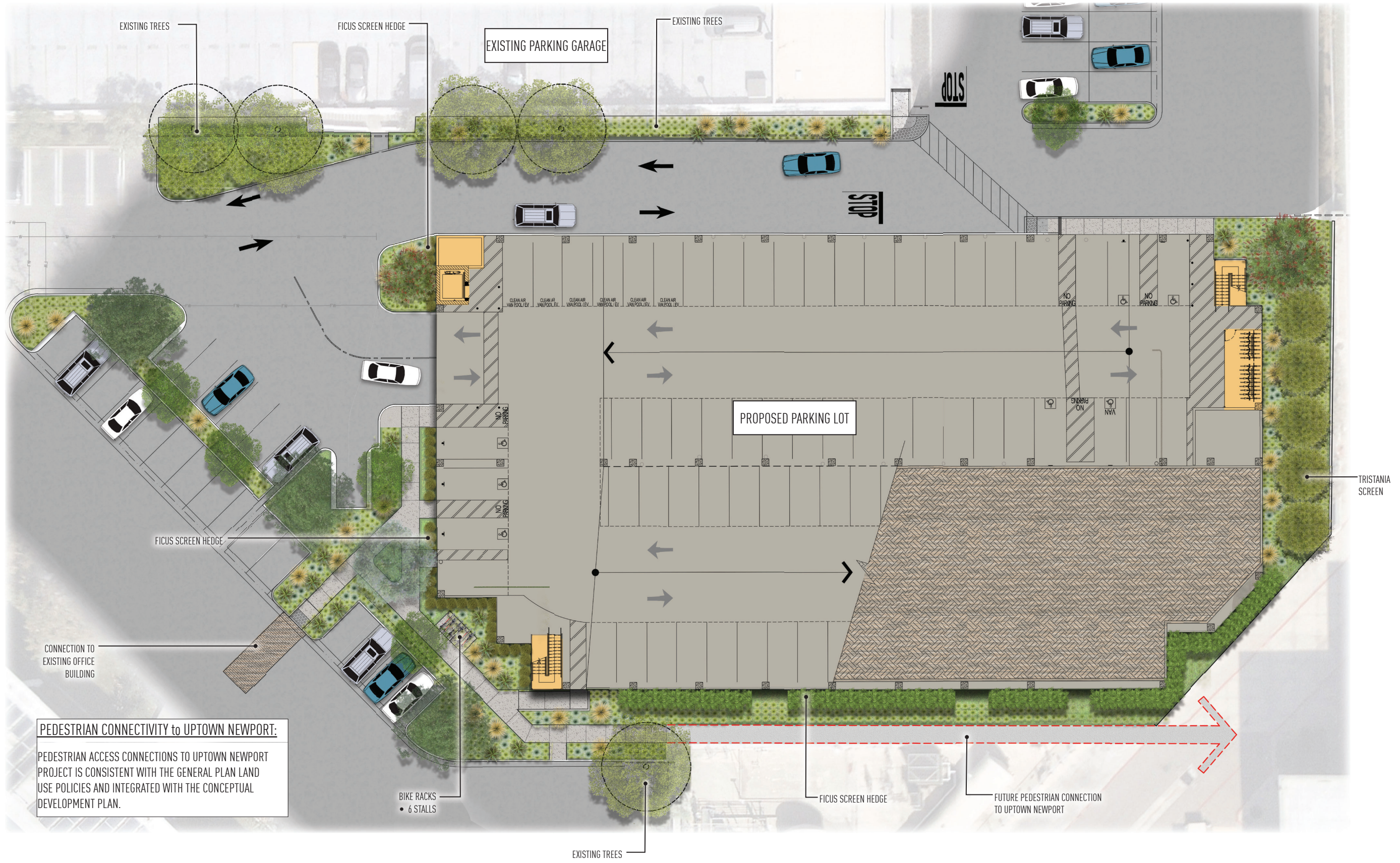
4 SOUTH ELEVATION
SCALE = 1/8" = 1'-0"



1 BUILDING SECTION
SCALE = 1/8" = 1'-0"



2 BUILDING SECTION
SCALE = 1/8" = 1'-0"



PEDESTRIAN CONNECTIVITY to UPTOWN NEWPORT:
 PEDESTRIAN ACCESS CONNECTIONS TO UPTOWN NEWPORT PROJECT IS CONSISTENT WITH THE GENERAL PLAN LAND USE POLICIES AND INTEGRATED WITH THE CONCEPTUAL DEVELOPMENT PLAN.

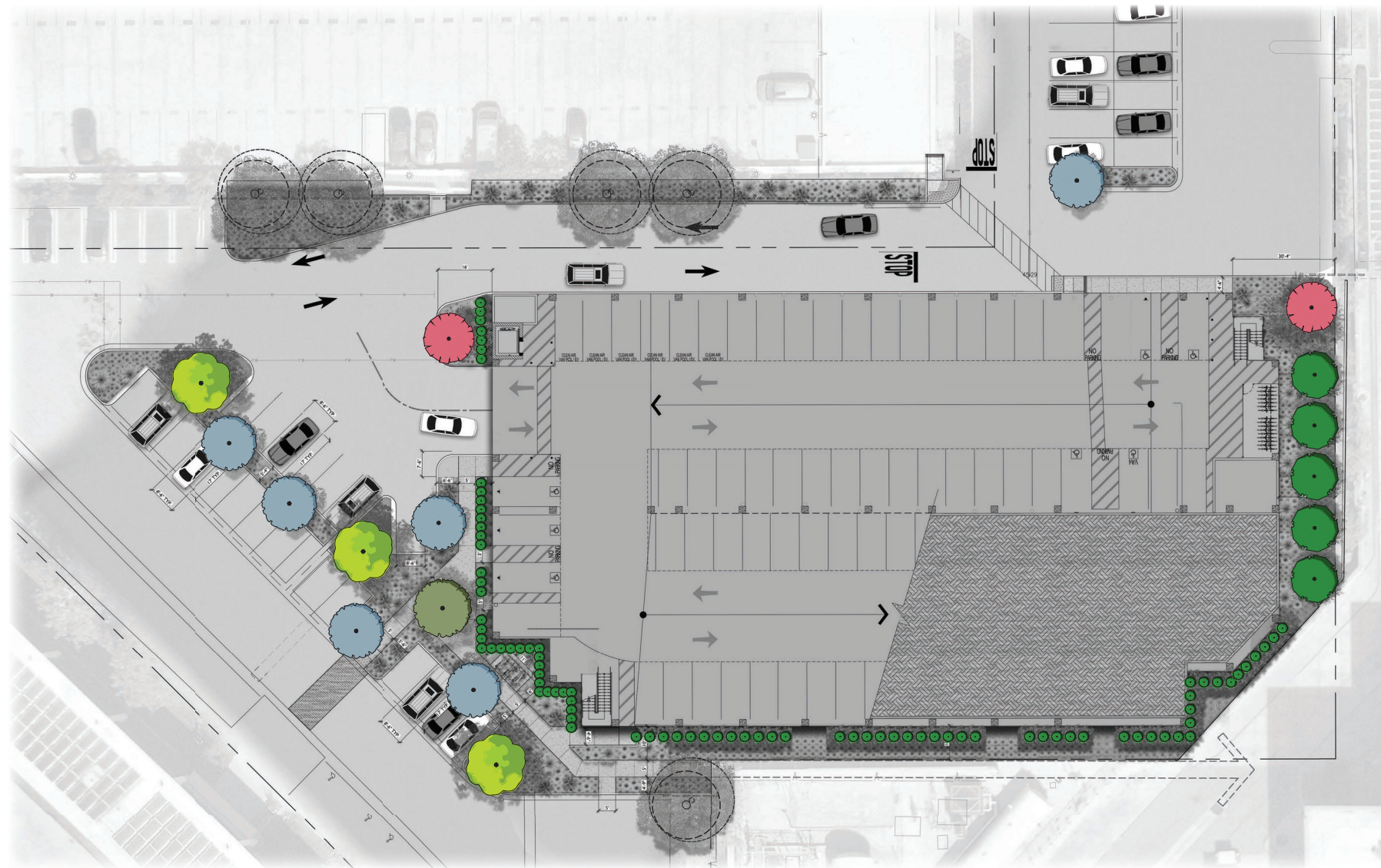
4400 VON KARMAN PARKING STRUCTURE

NEWPORT BEACH, CA

CONCEPTUAL LANDSCAPE PLAN L.1

OCTOBER 22, 2021





PLANT SCHEDULE				
TREES	BOTANICAL / COMMON NAME	SIZE	WUCOLS	QTY
	ARBUTUS X 'MARINA' ARBUTUS MULTI-TRUNK	24"BOX	LOW	2
	FICUS MICROCARPA 'GREEN GEM' TM GREEN GEM INDIAN LAUREL FIG	24"BOX	MEDIUM	88
	GEIJERA PARVIFLORA AUSTRALIAN WILLOW	24"BOX	LOW	3
	METROSIDEROS EXCELSA NEW ZEALAND CHRISTMAS TREE	24"BOX	MEDIUM	6
	OLEA EUROPAEA 'SWAN HILL' TM SWAN HILL OLIVE	24"BOX	LOW	1
	TRISTANIA CONFERTA BRISBANE BOX	24"BOX	MEDIUM	5
EXISTING TREES	BOTANICAL / COMMON NAME	SIZE	WUCOLS	QTY
	EXISTING TREE	N/A		5

WUCOLS NOTE:

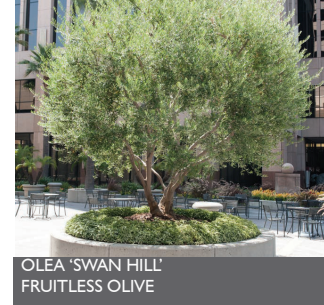
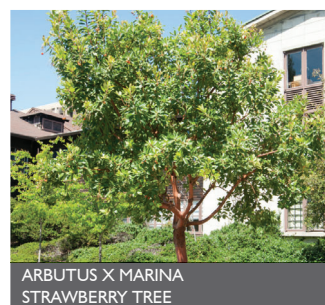
WUCOLS, WATER USE CLASSIFICATION OF LANDSCAPE SPECIES, IS A UNIVERSITY OF CALIFORNIA COOPERATIVE EXTENSION PUBLICATION AND IS A GUIDE TO THE WATER NEEDS OF LANDSCAPE PLANTS.

PLANT PALETTE NOTE:

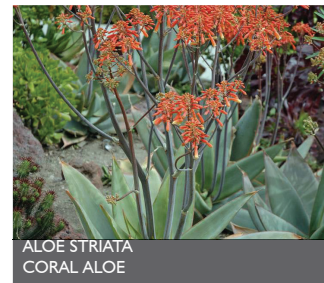
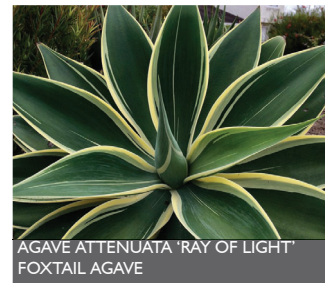
1. ALL PLANTS ARE CAL-IPC NON-INVASIVE AND WUCOLS MEDIUM/LOW WATER CONSUMPTIVE (REGION 3 - SOUTH COASTAL) VARIETIES FOR THEIR PROPOSED GROWING CONDITIONS.
2. THESE PLANTS ARE WATER CONSERVING AND USED FOR THEIR DEEP ROOT SYSTEMS WHICH STABILIZES SOIL AND MINIMIZES EROSION IMPACTS.

UTILITY SCREENING NOTE:

ALL ABOVE GRADE UTILITIES TO BE SCREENED WITH PRIVET HEDGE (TYPICAL).



TREES



SHRUBS



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

ZONING ADMINISTRATOR ACTION LETTER

Subject: Pacifica Christian High School Outdoor Cafeteria Area
(PA2021-186)
▪ Limited Term Permit No. XP2021-006

Site Location 883 West 15th Street

Applicant Pacifica Christian High School

Legal Description Parcel 2 of Parcel Map No. 88-285 (Resubdivision 877)

On December 15, 2021, the Zoning Administrator approved Limited Term Permit No. XP2021-006. This approval is based on the following findings and subject to the following conditions.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** PF (Public Facilities)
- **Zoning District:** PF (Public Facilities)

I. SUMMARY OF PROPOSED OPERATION

The applicant proposes a 2,350-square-foot expanded outdoor cafeteria area, an 800-square-foot canopy, and a 900-square-foot canopy for a 90-day term (January 1, 2022 through March 30, 2022) that was previously authorized by Emergency Temporary Use Permit No. UP2020-079 (PA2020-162) for Pacifica Christian High School. The proposed 2,350-square-foot outdoor cafeteria area will contain nine (9) tables with fixed benches and will occupy eight (8) parking spaces.

II. CEQA DETERMINATION

The proposed operation is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities), and Section 15314 under Class 14 (Minor Additions to Schools) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. The Class 1 exemption includes 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. The Class 14 exemption includes minor additions to existing schools within existing school grounds where the addition does not increase the student capacity by more than 25 percent or ten classrooms, whichever is less.

The project includes the addition of a 2,350-square-foot outdoor cafeteria space to an existing private school and is within the parameters noted for these exemptions. There will be no increase in student capacity and the expanded cafeteria area is not anticipated to have a significant effect on the environment. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions.

III. LIMITED TERM PERMIT REQUIRED FINDINGS

In accordance with Newport Beach Municipal Code (NBMC) Section 20.52.040 (Limited Term Permits), the following findings and facts in support of such findings are set forth:

Finding

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

Facts in Support of Finding:

1. The applicant has requested a limited term permit for ninety (90) days or less, starting on January 1, 2022, and ending on March 30, 2022. Therefore, the proposed operation will not create any long-term impacts on the surrounding community.
2. The expanded cafeteria area has not posed a hazard to the general welfare of persons residing in the area since it was installed during the COVID-19 pandemic in 2020 through an Emergency Temporary Use Permit. The continued operation of the expanded cafeteria area is limited to ninety (90) days beginning January 1, 2022, through March 30, 2022, and has been reviewed and conditioned to preclude any detriment to the general welfare of the area.
3. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).
4. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines
5. The overall plan includes appropriate delineation of outdoor use spaces with temporary physical barriers or markers.

Finding

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

Facts in Support of Finding:

1. The subject property is approximately 0.82 acres in size and is a flat property adjacent to West 15th Street. The existing private high school has operated at 833 West 15th Street since 2015. Based upon the site plan, there is adequate area to accommodate the expanded cafeteria area without impacting traffic, parking, and pedestrian circulation.
2. The subject property is surrounded by the Seacliff and Newport Terrace Mobile Home Parks to the north, Coastline Community College Campus to the northwest and townhome developments to the south, east and west.
3. There have been no code enforcement complains to date regarding the use of the Emergency Temporary Use Permit.

Finding

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

Facts in Support of Finding:

1. The subject property is accessed from West 15th Street. Private parking is provided on-site and at a nearby property located at 1499 Monrovia Avenue, which is owned by the applicant. The private high school is located in a commercial and residential area and proposes to operate during school hours (7:30 a.m. to 3:00 p.m., Monday through Friday), as permitted by Use Permit No. UP2017-008 (PA2017-066).
2. The expanded cafeteria area and canopies will not increase the number of students or staff present at the subject property. Therefore, no traffic issues are anticipated with the continued use of the expanded cafeteria area.

Finding

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

Facts in Support of Finding:

1. The proposed outdoor cafeteria area and canopies will not increase the parking demand of the subject property as the student enrollment and staff will not be increased as part of this Limited Term Permit.
2. Parking is provided on-site and nearby at 1499 Monrovia Avenue, which is owned by the applicant and is currently under renovation. The provided parking supply has historically accommodated the high school and is expected to accommodate the temporary use.

Finding

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

Facts in Support of Finding:

1. The General Plan land use designation for this site is Public Facilities (PF). The PF designation is intended to provide public facilities, including public schools, cultural institutions, government facilities, libraries, community centers, public hospitals, and public utilities. The proposed use is complementary to the existing private high school use and will allow students and staff to enjoy their meals while socially distancing outdoors in light of the current public health conditions.
2. The site is located in the Public Facilities (PF) Zoning District. The PF Zoning District is intended to provide for areas appropriate for public facilities, including community centers, cultural institutions, government facilities, libraries, public hospitals, public utilities, and public schools. The proposed use is complementary to the private high school use, will be utilized for a limited duration on-site, and will not impede the use of the site consistent with the PF designation. The PF zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is not located within a specific plan area.

IV. CONDITIONS

Planning

1. The development shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The approval of this Limited Term Permit shall be effective from January 1, 2022, to March 30, 2022, unless an extension is granted by the Zoning Administrator in compliance with Municipal Code Sections 20.52.040.J (Extension of Limited Term

Permit) and 21.54.060 (Time Limits and Extensions). The applicant shall be required to cease all permitted operations and remove any temporary improvements made to the outdoor spaces as part of this approval at the end of the effective period.

3. *The expanded outdoor cafeteria area shall not exceed 2,350 square feet with nine (9) tables and fixed bench seating.*
4. *One canopy shall not exceed 800 square feet and the second canopy shall not exceed 900 square feet in area.*
5. *The existing allowed hours of operation of the high school shall not be extended (7:30 a.m. to 3:00 p.m., Monday through Friday, as permitted by Use Permit No. UP2017-008).*
6. *The use of amplified sound within the temporary dining area shall be prohibited.*
7. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
8. The permittee shall provide adequate trash receptacles within the permitted patio area and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
9. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Limited Term Permit.
12. This Limited Term Permit 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.
13. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Limited Term Permit.
14. 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 this Limited Term Permit No. XP2021-006 (PA2021-186) for Pacifica Christian High School Outdoor Cafeteria Area. 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

15. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. A minimum 4-foot wide accessible path to all functional areas shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when on-site parking is provided.
 - d. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.
16. Accessible seating at tables or counters shall provide knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.
17. The tops of dining surfaces shall be 28 inches to 34 inches above the finish floor.
18. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.
19. Both canopies shall be removed until building permits are obtained for the anchoring of both canopies. Alternatively, both of the proposed canopies may be permanently removed from the site.

Fire

20. Fire lane(s) shall be identified on the plan.
21. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
22. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.

23. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-foot clearance in all directions.
24. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
25. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.

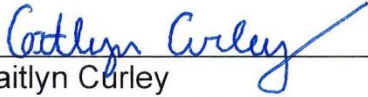
Public Works

26. The applicant shall maintain substantial barricades (water-filled barriers) between the temporary expansion and all driving surfaces, including drive aisles and parking spaces.
27. There shall be a minimum of 5 feet of space around all overhead facilities such as power poles and 15 feet of spaces around all underground facilities, such as vault lids, vent pipes, pad mounted transformers, etc.
28. Seating or structures below overhead conductors and/or under the “drip line” shall be prohibited.
29. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.
30. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided.
31. All dead-end drive aisles shall accommodate a dedicated turn-around area and minimum 5-foot hammerhead area.

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



Caitlyn Curley
Planning Technician



Jaime Murillo
Zoning Administrator

MKN/cnc

- Attachments:
- ZA 1 Vicinity Map
 - ZA 2 Emergency Temporary Use Permit No. UP2020-079
(PA2020-162)
 - ZA 3 SCE Clearance Decals
 - ZA 4 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit No. XP2021-006
(PA2021-186)

883 West 15th Street

Attachment No. ZA 2

Emergency Temporary Use Permit No. UP2020-079
(PA2020-162)



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 EMERGENCY
TEMPORARY USE PERMIT ACTION**

Subject: **Pacifica Christian High School ETUP (PA2020-162)**
▪ Emergency Temporary Use Permit No. UP2020-079

Site Location **883 15th Street**

Applicant **Pacifica Christian High School**

Property Owner **City of Newport Beach**

On **July 15, 2020**, the Community Development Director approved Emergency Temporary Use Permit No. UP2020-079. This approval is based on the following findings and subject to the following conditions.

I. SUMMARY OF PROPOSED OPERATION

An emergency temporary use permit to allow an additional outdoor cafeteria space (approximately 2,350 square feet, nine tables with fixed benches) within the on-site parking area (eight parking spaces utilized).

II. CEQA DETERMINATION

The proposed operation is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15269 (c) (the activity is necessary to prevent or mitigate an emergency), Section 15301 Class 1 (Existing Facilities), and Section 15314 Class 14 (Minor Additions to Schools) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3. Section 15269 allows specific actions necessary to prevent or mitigate an emergency. The Class 1 exemption includes 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. The Class 14 exemption includes minor additions to existing schools within existing school grounds where the addition does not increase the student capacity by more than 25 percent or ten classrooms, whichever is less. The addition of portable classrooms is included in this exemption. The project includes the addition of a 2,350-square-foot outdoor cafeteria space to an existing private school and is within the parameters noted for these exemptions. There will be no increase in student capacity and the expanded cafeteria area is not anticipated will not have a significant effect on the environment. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions.

III. EMERGENCY TEMPORARY USE PERMIT FINDINGS

In this case, the Community Development Director has found that the temporary use would not create a hazard to the health, safety, or welfare of the community for the following reasons:

1. The operation authorized by this Emergency Temporary Use Permit is temporary and only valid during the emergency order established by Emergency Ordinance No. 2020-005.
2. The project, based upon the applicant's project description, approved site plan, and implementation of all conditions of approval, will be operated safely thereby helping reduce the spread of COVID-19. The proposed operation is necessary to provide adequate space to allow for appropriate social distancing.
3. The permitted use shall adhere to applicable State of California and Orange County Health Care Agency guidelines for the safe operation of the use. It is the responsibility of the permittee to implement and follow industry-specific guidance of the State of California and the Orange County Health Care Agency guidelines.
4. The proposed operation has been reviewed by and is acceptable to the Building Division, Fire & Life Safety Division, and the Public Works Department. Conditions of Approval are included to help ensure this operation is not detrimental;
5. The proposed operation does not constitute an increase in the overall occupant load beyond what the existing Use Permit and/or Certificate of Occupancy allow;
6. An adequate supply of parking is available to serve the subject business and surrounding uses.
7. The proposed operation does not extend any hours of operation beyond those currently permitted by Use Permit No. UP2017-008 (7:30 a.m. to 3:00 p.m., Monday through Friday).
8. The overall plan includes appropriate delineation of outdoor use spaces with temporary physical barriers or markers.
9. The proposed operation is conditioned to be accessible to all persons, including those with disabilities, in accordance with the Americans with Disabilities Act (ADA).

IV. CONDITIONS OF APPROVAL

1. Only that specifically described above and depicted in the attached site plan is authorized, subject to the conditions set forth below. Any additional changes require separate review and may necessitate separate authorization from the Director. The expanded dining area shall be in substantial conformance with the site plan and seating layout provided in Attachment No. CD 3.

2. As long as this Emergency Temporary Use Permit is in effect, all NBMC provisions and any restrictions set forth in an applicable discretionary permit regulating uses, nonconforming uses, development standards, parking and permit procedures that regulate the use and development of private or public property operations are suspended only to the extent that these provisions or restrictions set forth in a discretionary permit conflict with the terms of this Emergency Temporary Use Permit.
3. *The expanded outdoor dining patio shall not exceed 2,150 square feet.*
4. *The existing allowed hours of operation of the school shall not be extended. The hours of operation of the area modified as part of this Emergency Temporary Use Permit shall not extend beyond 9 p.m.*
5. *There shall be no alcohol served in the expanded cafeteria area.*
6. The use of amplified sound within the temporary area shall be prohibited.
7. All dining tables shall be separated from other dining tables and/or waiting areas by a minimum distance of seven (7) feet to ensure proper social distancing is maintained.
8. The establishment shall abide by all applicable Orange County Health Care Agency requirements.
9. Establishments that provide food service, shall abide by the COVID-19 Industry Guidance: Dine-In Restaurants provided by the California Department of Public Health and Department of Industrial Health.
10. The permittee shall provide adequate trash receptacles within the permitted patio shall and the operator shall provide for periodic and appropriate removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

Building

11. Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.
 - a. An accessible path to all functional areas shall be provided.
 - b. Access to restrooms shall be provided at all times.
 - c. Accessible parking stalls shall not be used for seating areas when on-site parking is provided.
 - d. Detectable warnings are required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.
12. Accessible seating at tables or counters shall provide knee clearance of at least 27 inches high, 30 inches wide, and 19 inches deep.

13. The tops of dining surfaces and work surfaces shall be 28 inches to 34 inches above the finish floor.
14. All exiting paths shall be a minimum 36 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.

Fire

15. *Tents shall not be permitted in the expanded cafeteria seating area. Individual pop-up canopies (10 feet by 10 feet) are allowed but shall not be consolidated into a single covered area.*
16. Fire lane(s) shall be identified on the plan.
17. Parking, displays, seating or other obstacles that interfere with emergency vehicles and personnel shall not be permitted in fire lanes.
18. Vehicles are permitted to stop in fire lanes awaiting service or delivery provided that the driver remains inside the vehicle and the vehicle is ready to move immediately upon orders from emergency personnel.
19. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a three-foot clearance in all directions.
20. Fire Department devices shall not be covered, blocked or otherwise hidden from plain view.
21. All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way.

Public Works

22. *The applicant shall install and maintain a substantial physical barrier (water-filled barriers) between any area used and adjacent to any street, driveway or parking area.*
23. There shall be a minimum of 5 feet of space around all overhead facilities, such as poles, and 15 feet of space around all underground facilities, such as vault lids, manholes, vent pipes, pad-mounted transformers, etc.
24. Seating or structures below overhead conductors and/or under the 'drip line' shall be prohibited.
25. Public eating/dining at tables shall not be situated on top of energized vault lids, energized underground structures, or next to vent pipes, etc.

26. Expanded outdoor dining areas shall adhere to the SCE clearance decal examples provided in Attachment No. CD 2.
27. The Community Development Director or designee may inspect the modified area at any time during normal business hours.
28. The Community Development Director may immediately revoke this permit if the Director determines that there has been a violation of any condition of approval. Any revocation of an Emergency Temporary Use permit shall be deemed effective upon the posting of a notice of revocation at the site of the business granted the emergency temporary permit.
29. The Community Development Director may modify this Emergency Temporary Use Permit. The Director shall notify the applicant of any proposed modification and a decision to modify this permit shall be deemed effective upon the posting of a notice of modification at the site of the business granted the emergency temporary use permit
30. This temporary authorization shall expire fourteen (14) days after the emergency order established by Emergency Ordinance No. 2020-005 is terminated or repealed.
31. Upon termination or repeal of Emergency Ordinance No. 2020-005, the Applicant shall immediately work to remove the temporary improvements in a timely manner and shall restore the expanded area back to its original use and improvements.
32. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of this Emergency Temporary Use Permit Pacifica Christian High School. 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.

V. APPEAL

This decision may be appealed by the applicant/permittee to the City Manager by notifying the City Manager of the appeal within three (3) calendar days of the decision. The City Manager shall have authority to sustain, reverse or modify the decision of the Community Development Director and the City Manager's decision shall be final.

On behalf of Seimone Jurjis, Community Development Director.

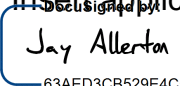


Makana Nova
Senior Planner

- Attachments: ~~CD 1 Filed Application~~
~~CD 2 SCE Project Decals~~
~~CD 3 Site Plan Layout~~

Applicant and Permit Recipient Acknowledgement and Agreement

I hereby acknowledge that I have received a copy of this permit and that I have read and understand the permit and all conditions. I hereby agree to operate the authorized use consistent with this permit including the project description, approved site plan diagram, findings, and conditions of approval. This is an approved and executed permit and it constitutes a contract between the City and Permittee for all purposes.

Jay Allerton	Facilities Manager
_____ Insert applicant name and title	
	7/16/2020
_____ Signature	_____ Date

Attachment No. ZA 3

SCE Clearance Decals

**SOUTHERN CALIFORNIA EDISON
TRANSMISSION AND DISTRIBUTION BUSINESS UNIT**

Approved Decals

June 8, 2020

UNDERGROUND SERVICE ALERT

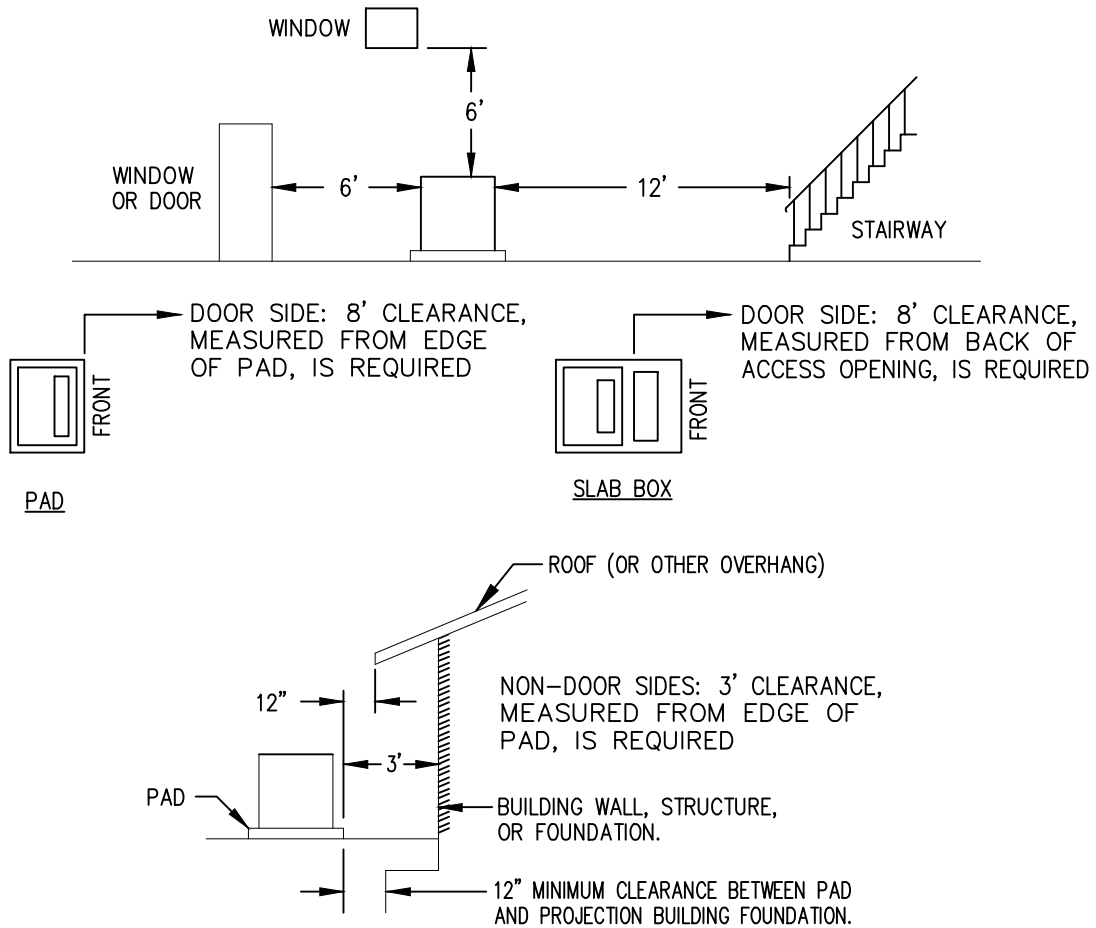
Contact USA

Dial 811 or 800-422-4133
www.digalert.org/contact

For Underground Locating
Two Working Days Before You Dig

D16: Rev. 05/28/20

MINIMUM CLEARANCES FOR PADMOUNTED TRANSFORMERS SEE DDS-3, 3-40



NOTES:

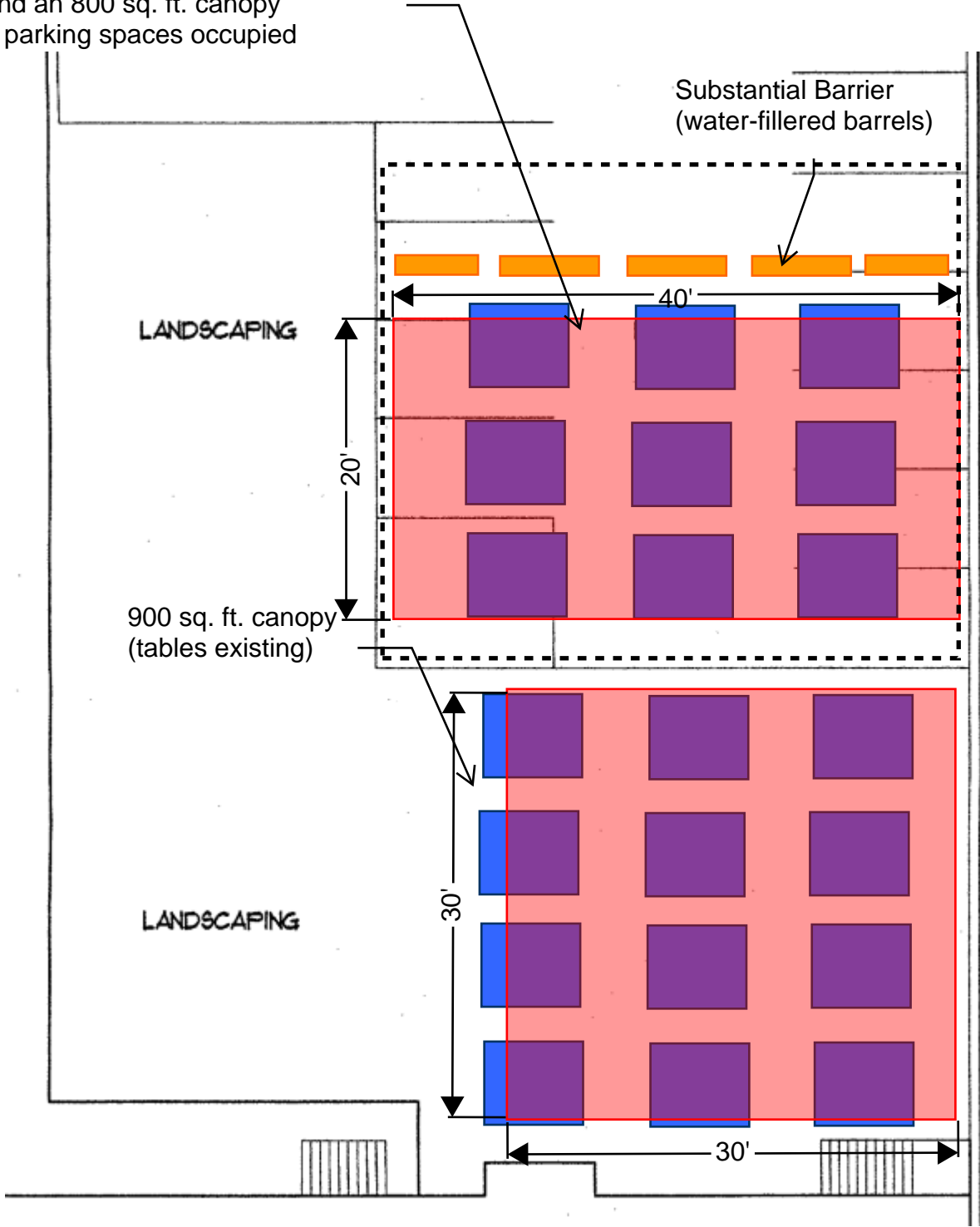
1. AN 8' MINIMUM CLEARANCE IS REQUIRED ON DOOR SIDE OF TRANSFORMER FOR OPERATION. THIS AREA MUST REMAIN CLEAR OF ALL OBSTRUCTIONS INCLUDING, BUT NOT LIMITED TO, SHRUBS, TREES, GATES, FENCES, WALLS, SIGNS AND POLES.
2. PAD-MOUNTED TRANSFORMERS SHALL NOT BE LOCATED IN FRONT OF DOORS, STAIRWAYS, BENEATH WINDOWS THAT CAN BE OPENED, OR WHERE THEY WILL OBSTRUCT THE VISION OF VEHICULAR TRAFFIC
3. PAD-MOUNTED TRANSFORMERS SHALL BE LOCATED AT LEAST THE MINIMUM DISTANCE AWAY FROM BUILDINGS OR OTHER STRUCTURES TO ENSURE ADEQUATE SPACE FOR OPERATING, TO MINIMIZE VIBRATION HUMS, AND TO MEET FIRE SAFETY REQUIREMENTS.
4. A CLEAR PASSAGEWAY OF 12 FEET MINIMUM SHALL BE AVAILABLE AT ALL TIMES, IMMEDIATELY ADJACENT TO ONE SIDE OF THE TRANSFORMER TO PROVIDE AN ACCESSIBLE ROADWAY FOR TRANSFORMER MAINTENANCE. THIS PASSAGEWAY SHALL BE DESIGNED TO MEET H-20 (20-TON) CONSTRUCTION.
5. TRANSFORMER STRUCTURES WILL NORMALLY BE INSTALLED ONLY IN NONTRAFFIC AREAS. TRANSFORMER PROTECTION IS REQUIRED WHEN COMPANY EQUIPMENT IS EXPOSED TO TRAFFIC. THIS PROTECTION MAY BE IN THE FORM OF BARRIERS, BARRICADES, OR CURB. A CURB MUST HAVE A MINIMUM HEIGHT OF 6 INCHES AND BE AT LEAST 6 INCHES THICK AND ITS FRONT FACE LOCATED 60 INCHES MINIMUM FROM THE EQUIPMENT FOUNDATION.

D54: Rev. 05/14/12




Attachment No. ZA 4

Site Plan

2,350 sq. ft. Cafeteria Seating Area
with 9 tables with fixed benches
and an 800 sq. ft. canopy
8 parking spaces occupied



Key

-  Proposed outdoor cafeteria area
-  Proposed canopies
-  Tables (new and existing)