

# 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

Action: Approved

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending January 14, 2022.

#### ZONING ADMINISTRATOR ACTIONS JANUARY 13, 2022

Item 1:	Lido House Temporary Tent Limited Term Permit No. XP2021-035 (PA2021-267) Site Address: 3300 Newport Boulevard					
	Action: Approved by Resolution No. ZA2022-001	Council District	1			
Item 2:	Avila's El Ranchito Temporary Patio Limited Term Permit No. X Development Permit No. CD2021-071 (PA2021-273) Site Address: 2800 Newport Boulevard	P2021-036 and C	oastal			
	Action: Continued to January 27, 2022 Zoning Administrator Meeting	Council District	1			
Item 3:	Newport Fusion Sushi Temporary Outdoor Expansion Limited Term (PA2021-200)	Permit No. XP202	1-018			
	Site Address: 21135 Newport Coast Drive					
	Action: Approved by Resolution No. ZA2022-002	Council District	6			
Item 4:	Stein Residence Coastal Development Permit No. CD2021-064 (PA2021-249) Site Address: 6501 and 6503 Seashore Drive					
	Action: Approved by Resolution No. ZA2022-003	Council District	1			
COMMUNITY DEVELOPMENT DIRECTOR OR PLANNING DIVISION STAFF ACTIONS (Non-Hearing Items)						
Item 1:	Shell Street Residence Staff Approval No. SA2021-003 (PA2021-137 Site Address: 2717 Shell Street	7)				

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.

Council District 6

#### **RESOLUTION NO. ZA2022-001**

#### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-035 TO ALLOW A TEMPORARY ROOFTOP TENT LOCATED AT 3300 NEWPORT BOULEVARD (PA2021-267)

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

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Anthony Wrzosek of R.D. Olson Development (Applicant), with respect to property located at 3300 Newport Boulevard, requesting approval of a limited term permit.
- A request for a limited term permit to allow one (1) 1,656-square-foot temporary tent structure at the rooftop deck venue area (Topside) at the Lido House Hotel for up to four (4) cumulative months over a one (1)-year term. The tent structure is intended to provide protection from light rain and wind for a limited period within the colder weather months.
- 3. The subject property is designated CV-LV (Visitor Serving Commervial Lido Village) by the General Plan Land Use Element and is located within the CV-LV (Commercial Visitor-Serving Lido Village) Zoning District.
- 4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is CV-LV (Visitor Serving Commercial Lido Village) and it is located within the CV-LV (Commercial Visitor-Serving Lido Village) Coastal Zoning district.
- 5. A public hearing was held on January 13, 2022, 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 15311 under Class 11 (Accessory 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 11 exemption exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The proposed temporary tent structure will be placed on the existing roof deck of the Lido House Hotel for a temporary time period (four [4] cumulative months over a one [1]-year term) and will be ancillary to an existing hotel use. The proposed structure will partially

enclose an existing outdoor event space and it will not intensify the overall hotel use authorized.

#### 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;

- 1. The limited term permit will allow one (1) temporary tent structure to provide weather protection to the rooftop deck as conditioned. The tent structure will comply with all conditions of approval from the Building Division and Fire Department, including no fire appliances operable when the tent is present and no heating devices within the tent area. Application of Building Code standards will ensure proper emergency exiting. The tent structure will require a building permit and it must meet applicable structural requirements.
- 2. The placement of the tent structure is limited to four (4) cumulative months during a one (1)-year term, and it is made of a clear material to reduce the visual conflicts with surrounding residents and businesses. Additionally, the height of the tent structure is approximately 20 feet above the existing rooftop venue area, and it will be below the roofline of the existing hotel.
- 3. The temporary tent structure will provide weather protection only to the existing rooftop deck and will not alter any operational characteristics of the rooftop use (Topside) or the hotel. The rooftop venue has been in operation since April 2018 and the use has not proven to be detrimental.
- 4. The location of the temporary tent structure at the existing rooftop deck will not displace any use or activities existing at the hotel.
- 5. Based upon the provided plans, there is adequate area on the roof deck to accommodate the tent structure. There will be no change to the site plan or existing uses at the hotel and there will therefore be no impact to vehicle circulation.

# 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 3.78 acres in size. The tent structure will be located on the rooftop deck venue at the Lido House Hotel for a limited duration (four [4] cumulative months over a one [1]-year term) and it will not conflict with any landscape or parking/circulation areas. Based upon the provided plans, there is adequate area on the roof deck to accommodate the tent structure.
- 2. The lot is bounded by Newport Boulevard to the west, Via Oporto to the east, 32<sup>nd</sup> Street to the south, and the Via Lido Plaza shopping center to the north. The lot is separated from nearby mixed-use properties (Mixed-Use Cannery Village and 15<sup>th</sup> Street Zoning District) by 32<sup>nd</sup> Street, and Via Oporto separates the lot from residential properties (Planned Community No. PC59, Lido Villas Zoning District). All other immediately surrounding uses are commercial. The proposed temporary tent will not contribute to increased noise levels.

#### 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 primarily takes access from Finley Avenue. The temporary tent structure will be located on the existing roof deck and will have no impact to vehicular or pedestrian access to the lot. No traffic or site circulation issues are anticipated.
- 2. The tent structure will be located on the existing roof deck with the purpose of providing weather protection to the existing rooftop venue. There is no change in the operational characteristics or allowed occupancy of the rooftop venue or the hotel proposed. The tent structure therefore will not generate additional traffic or impede access to parking or loading 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

#### Fact in Support of Finding:

1. The tent structure will be located on the existing roof deck with the purpose of providing weather protection to the existing rooftop venue. There is no change in the operational characteristics of the rooftop venue or the hotel proposed. The tent structure therefore will not generate additional traffic or require additional parking.

#### 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 Visitor-Serving Commercial Lido Village (CV-LV). The CV-LV designation is intended to allow for a range of accommodations (e.g. hotels, motels, hostels), goods, and services intended to primarily serve visitors to the City of Newport Beach. The proposed structure is accessory to the existing hotel and rooftop venue use, will be utilized for a limited duration onsite, and will not impede the use of the site consistent with the CV-LV designation. The temporary tent structure does not change the characteristics of the existing rooftop venue or hotel uses. The weather protection provided by the tent structure will allow the rooftop venue to be utilized during colder winter months.
- 2. The site is located in the Commercial Visitor-Serving Lido Village (CV-LV) Zoning District. The CV-LV designation is intended to provide a range of accommodations (e.g. hotels, motels, hostels), goods, and services intended to primarily serve visitors to the City of Newport Beach and a fire station. The proposed use is ancillary to the existing retail use, will be utilized for a limited duration onsite, and will not impede use of the site consistent with the CV-LV designation. The proposed structure is accessory to the existing hotel and rooftop venue use, will be utilized for a limited duration onsite, and will not impede the use of the site consistent with the CV-LV designation. The proposed structure on site, and will not impede the use of the site consistent with the CV-LV designation. The temporary tent structure does not change the characteristics of the existing rooftop venue or hotel uses. The weather protection provided by the tent structure will allow the rooftop venue to be utilized during colder winter months.
- 3. 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 15311 under Class 11 (Accessory 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. XP2021-035 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 13<sup>TH</sup> DAY OF JANUARY, 2022.

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 plans except as noted in the following conditions.
- 2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
- 3. The conditions of approval of Site Development Review No. SD2016-005 and Use Permit No. UP2016-015 (PA2016-061) shall remain in effect. The applicant shall comply with all applicable conditions of approval.
- 4. The tent structure shall be located within the existing roof deck as shown on provided plans.
- 5. The 1,656-square-foot temporary tent structure is permitted onsite for four (4) cumulative months during the time period of April 1, 2022 through March 31, 2023. A tent structure on the rooftop deck any time other than the dates specified is prohibited, unless an extension is granted by the Zoning Administrator in accordance with NBMC 20.54.060 for an additional 4 (cumulative) months for the time period between April 1, 2023 through March 31, 2024.
- 6. Notwithstanding the provisions of Condition No. 5, the applicant shall be allowed an opportunity to temporarily construct the tent as a mock up for testing purposes only. The testing/mock up may be allowed for a period of up to three (3) weeks. No customer use of the tent shall be permitted during the mock up test period.
- 7. The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the tent structure is authorized.
- 8. Tenant shall provide certificates of insurance, per terms of lease with the City of Newport Beach, prior to construction.
- 9. Tenant shall provide construction bonds, per terms of lease with the City of Newport Beach, prior to construction.
- 10. The Limited Term Permit is for the placement of one (1) temporary tent structure onsite for the dates specified and does not authorize the placement of additional tents onsite.

- 11. Should the temporary tent structure become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
- 12. 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 Lido House Temporary Tent Structure including, but not limited to, Limited Term Permit No. XP2021-035 (PA2021-267). 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**

- 13. Engineering design and plans are required for tent stability and anchorage.
- 14. Open flame not permitted under tent. List of appliances required for enclosed tent.
- 15. Building permit is required to ensure compliance with required life-safety/exiting.
- 16. The tent shall comply with California Building Code (CBC) 3102 and 3103.

#### Fire Department

- 17. Fire appliances shall not be allowed to be operable when the tent is present. Thus, the gas, which supplies the fire appliances, shall be turned off when the tent is erected. The gas line shall be restricted with a Knox lock so that it cannot be turned back on. The Knox lock shall be placed and removed while the Fire Department is present. California Code of Regulations (CCR), Title 19, Division I, §321 Abatement of Fire or Panic Hazards and California Fire Code (CFC) Section 3104.7 applies.
- 18. Heating devices will not be allowed within the tent area. Blowers may be utilized to heat the interior of the tent area. CCR, Title 19, Division I, §321 Abatement of Fire or Panic Hazards applies.
- 19. An "F" Permit (plan check permit) and a "Tent Permit" (permit required by CFC) will be required from the Fire Department for the tent. Plans shall be submitted and approved by the Fire Department for the tent prior to installation. Upon plan approval, an "F" permit

will be issued by the City. After a fire inspection is conducted of the tent, a Fire Tent Permit will be issued. CFC Section 3103.2 applies.

- 20. Tents and their appurtenances shall be adequately roped, braced and anchored to withstand the elements of weather and prevent against collapsing. Documentation of structural stability shall be furnished upon plan approval. CFC Section 3103.9 applies.
- 21. All tent fabrics and all interior decorative fabrics or materials shall be flame resistant in accordance with appropriate standards set forth in California Code of Regulations, Title 19, Division I, Chapter 8. Tent tops and sidewalls shall be made either from fabric, which has been flame resistant treated with an approved exterior chemical process by an approved application concern, or from inherently flame-resistant, fabric approved and listed by the State Fire Marshal. CCR, Title 19 Division I, §332.(a) Flame Resistance.
- 22. Before a permit is granted, the owner or agent shall file with the fire code official a certificate executed by an approved testing laboratory certifying that the tents and their appurtenances; sidewalls, drops and tarpaulins, floor coverings, combustible decorative materials and effects, are flame resistant in accordance with the provisions set forth in CCR, Title 19 Division I Chapter 8. CFC Section 3104.2.
- 23. All tents manufactured for sale in California shall be labeled in accordance with the appropriate provisions of California Code of Regulations, Title 19, Division I, Section 335. CCR, Title 19 Division I, §334 Requirements Pertaining to All Tents.
- 24. Each section of top and sidewall in large tents shall have a durable label, permanently affixed and comply with CCR Title 19 Division I, §335.(a) and (b) Labeling of Tents.
- 25. "No Smoking" signs shall be required and provided as per CFC Section 3104.6.
- 26. Open or exposed flame is not allowed within the tent.
- 27. Portable fire extinguishers are required as per CFC Section 3104.12.
- 28. Exit signs, exit sign illumination, and means of egress illumination shall comply as per CFC Section 3103.12.6 & 3103.12.6.1 & 3103.12.70.
- 29. The required width of exits, aisles and passageways shall be maintained at all times to a public way. Guy wires, guy ropes and other support members shall not cross a means of egress at a height of less than 8 feet. The surface of means of egress shall be maintained in an approved manner. CFC Section 3103.12.8.
- 30. Notwithstanding any extensions of amendments to this limited term permit, the proposed tent is limited to 180 days (6 months) during a calendar year.

#### **RESOLUTION NO. ZA2022-002**

#### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LIMITED TERM PERMIT NO. XP2021-018 TO ALLOW A TEMPORARILY EXPANDED OUTDOOR DINING AREA LOCATED AT 21135 NEWPORT COAST DRIVE (PA2021-200)

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

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by The Irvine Company (Applicant), with respect to property located at 21135 Newport Coast Drive, and legally described as Parcel No. 1 of Parcel Map No. 2000-160, requesting approval of a limited term permit.
- 2. The Applicant requests to allow a maximum 550-square-feet expanded dining area for up to a one (1)-year term. The expanded dining area was previously authorized through Emergency Temporary Use Permit No. UP2020-181 (PA2020-337).
- 3. The subject property is categorized Neighborhood Commercial (CN) by the General Plan Land Use Element and is located within the Newport Ridge (PC53) Planned Community.
- 4. The subject property is not located within the coastal zone.
- 5. A public hearing was held on January 13, 2022, 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 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.

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;

- 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 Site Development Review No. 0104624 and includes approximately 1,000 square feet of interior net public area with no authorization for permanent outdoor dining.
- 2. The expanded dining area has not posed a hazard or nuisance 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 one (1)-year 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 within the Newport Coast Shopping Center. 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 property is 240,802 square feet and is developed with a multi-use neighborhood shopping center, along with a surface parking lot. The temporarily expanded parking area will be located within an existing common area of the shopping center, adjacent to the subject restaurant. Based upon the site plan, there is adequate area to accommodate the expanded dining area without impacting pedestrian circulation.
- 2. The lot is bounded by Ridge Park Road to the south, San Joaquin Hills Road to the north, multi-family residences to the west, and Newport Coast Drive to the east. Existing food service uses with outdoor dining are located within the shopping center 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 Newport Coast 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;

- 1. The shopping center is accessed from Newport Coast Drive, San Joaquin Hills Road, and Ridge Park Road. There is a surface parking lot to serve all tenants in the center, including 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 the 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. The parking is expected to adequately accommodate the temporary use for up to a one (1)-year term.
- 2. The temporarily expanded dining area will not impede pedestrian access along any private or public walkway.

#### 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.

- 1. The General Plan land use category for this site is Neighborhood Commercial (CN). 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. The expanded outdoor dining use is accessory to the existing food service use, will be utilized for a limited duration on-site, and will maintain compatibility with nearby residential uses consistent with the CN category.
- 2. The site is in the Commercial Village of the Newport Ridge Planned Community (PC53) Zoning District. The Commercial Village area intends for a variety of local commercial uses, facilities supporting the surrounding community, and the opportunity for multifamily residential uses combine to make a unique mixed-use development area. Local commercial uses within the Commercial Village may include retail sales, local services, limited professional and administrative office uses, and restaurants. The Commercial Village of the PC53 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 Newport Coast Shopping Center because 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 Newport Coast 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. The exceptions to the Class 3 Exemption do not apply.
- 2. The Zoning Administrator of the City of Newport Beach hereby approves Limited Term Permit No. XP2021-018 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 NBMC.

PASSED, APPROVED, AND ADOPTED THIS 13<sup>TH</sup> DAY OF JANUARY, 2022.

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 a one (1)-year period from the effective date, 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. The expanded dining area shall not exceed 550 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 10 p.m., daily.
- 5. There shall be no use of amplified sound and/or live entertainment.
- 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 sidewalk and all adjoining public rights-of-way shall remain free and clear from any obstructions.
- 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 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 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.
- 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. XP2021-018 (PA2021-200) for Newport Fusion Sushi 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 (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.
- 20. All Fire Department devices (fire hydrants, fire department connections, water valves, etc.) shall have a 3-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. ZA2022-003**

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2021-064 TO DEMOLISH AN EXISTING RESIDENTIAL DUPLEX AND CONSTRUCT A NEW THREE (3)-STORY RESIDENTIAL DUPLEX WITH ATTACHED PARKING FOR FOUR (4) CARS LOCATED AT 6501 AND 6503 SEASHORE DRIVE (PA2021-249)

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

SECTION 1. STATEMENT OF FACTS.

- 1. An application was filed by Eric Aust (Applicant), with respect to property located at 6501 and 6503 Seashore Drive and legally described as Lot 8, Block E, in Seashore Colony Tract, requesting approval of a coastal development permit.
- 2. The Applicant proposes to demolish an existing duplex and construct a new three (3)-story, 4,325-square-foot duplex with two (2) attached 385-square-foot, two (2)-car garages. The project also includes additional appurtenances such as site walls, fences, patios, landscaping, and drainage devices. All improvements will occur within the confines of the private property. The design complies with all development standards including height, setbacks, and floor area limit, and no deviations are requested.
- 3. The subject property is categorized RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
- 4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential) (30.0 39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
- 5. A public hearing was held on January 13, 2022, 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 additions of up to 10,000 square feet to existing structures. The proposed project consists of the

demolition of a residential duplex and the construction of a new 5,095-square-foot, three (3)-story duplex with attached parking for four (4) cars.

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

# SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

- 1. On April 14, 2020, the City Council adopted two ordinances to amend Title 20 (Zoning Code) and Title 21 (Local Coastal Program Implementation Plan) revising Setback Map No. S-1A to adjust the required setbacks for the subject property (PA2019-216). In conjunction with the amendments, this action revoked Variance No. VA0012 and Modification No. MD2343 previously authorized for the site permitting setback encroachments for the existing duplex. The amendments established the current setbacks and buildable area applicable to project, which was found to be consistent with other properties in the vicinity.
- 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 5,244 square feet and the proposed floor area is 5,095 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 0 feet along the front property line abutting Seashore Drive, 4 feet along each side property line and 5 feet along the rear property line abutting the alley.
  - c. The highest guardrail is less than 24 feet from existing grade and the highest ridge is no more than 29 feet from existing grade, which comply with the maximum height requirements.
  - d. The project includes enclosed and covered parking for a total of four (4) vehicles, complying with the minimum two (2)-car space parking per unit requirement for residential duplexes.

- 3. The neighborhood is predominantly developed with two (2)-story residences and an occasional three (3)-story, single-family residence. The proposed design, bulk, and scale of the development is consistent with applicable development standards of the zoning district and the expected future development of the neighborhood.
- 4. The finish floor elevation of the proposed duplex residence is 13.25 feet based on the North American Vertical Datum of 1988 (NAVD 88), which complies with the minimum 9.0-foot (NAVD 88) elevation standard for new structures. Impacts from sea level rise are not anticipated at this time for the 75-year economic life of the proposed improvements.
- 5. 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.
- 6. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the NBMC, 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. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
- 7. Pursuant to NBMC Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
- 8. Proposed landscaping will comply Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted
- 9. The project site is located adjacent to a Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest designated coastal viewpoint is approximately 40 feet away from the project site, at the West Newport Park. The project site is directly across from the Park's parking lot and does not orient within the identified coastal viewshed. The building design features large glass windows throughout, frameless glass guardrails, and uses modern lines and architectural treatments which provide for visual interest. The project's compliance with height and setback development standards will prevent new impacts to

views of the coast as the new residence will maintain a building envelope consistent with the existing neighborhood pattern of development.

#### Finding:

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

#### Fact in Support of Finding:

- 1. The project site is located within West Newport, between the nearest public road paralleling the sea or shoreline and the sea or shoreline. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing residential duplex located on an R-2 lot with a new residential duplex. 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 access to the coast is available on either side of the project site via the Walnut Street and Lugonia Street ends. Lateral access is provided on the beach and through the West Ocean Front Alleyway. 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 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.
- 2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2021-064, 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 13<sup>TH</sup> DAY OF JANUARY, 2022.

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. <u>Prior to the issuance of a building permit</u>, 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.
- 3. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
- 4. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
- 5. This Coastal Development Permit does not authorize any development seaward of the private property.
- 6. 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.

- 7. 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.
- 8. 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.
- 9. 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.
- 10. 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.
- 11. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
- 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 Coastal Development Permit.
- 14. 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.
- 15. <u>Prior to the issuance of building permits</u>, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
- 16. <u>Prior to the issuance of building permits</u>, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.

- 17. <u>Prior to issuance of a building permit</u>, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
- 18. <u>Prior to issuance of a building permit</u>, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
- 19. <u>Prior to issuance of building permits</u>, the final WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQMP and any changes could require separate review and approval by the Building Division.
- 20. <u>Prior to the issuance of building permits</u>, 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.
- 21. 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.
- 22. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

	Between the hours of 7:00AM and 10:00PM		Between the hours of 10:00PM and 7:00AM	
Location	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

23. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.

- 24. The project shall comply with the construction site fencing and noticing requirements as provided in Chapter 15.60 of the NBMC
- 25. Prior to the issuance of building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
- 26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
- 27. This Coastal Development Permit No. CD2021-064 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 NBMC, unless an extension is otherwise granted.
- 28. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Stein Residence including, but not limited to, Coastal Development Permit No. CD2021-064 (PA2021-249). 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.



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

# COMMUNITY DEVELOPMENT DIRECTOR ACTION LETTER

Subject:	<ul> <li>Shell Street Residence (PA2021-137)</li> <li>Staff Approval No. SA2021-003</li> </ul>
Site Location	2717 Shell Street
Applicant	McClean Design
Legal Description	Lots 6 and13, Block C-33, Corona del Mar Tract

On <u>January 14, 2022</u>, the Community Development Director approved Staff Approval No. SA2021-003 to authorize the renovation and remodel of an existing single-family residence in substantial conformance with Variance No. 1139. This approval is based on the following analyses and discussion.

# LAND USE AND ZONING

- General Plan Land Use Plan Category: RS-D (Single Unit Residential Detached)
- **Zoning District:** R-1 (Single-Unit Residential)
- Coastal Land Use Plan Category: RSD-C (Single Unit Residential Detached) (10.0 - 19.9 DU/AC)
- Coastal Zoning District: R-1 (Single-Unit Residential)

# PROJECT SUMMARY

# I. <u>BACKGROUND</u>

On February 19, 1987, the Planning Commission approved Variance No. 1139 (Attachment No. CD 2), allowing the construction of a single-family residence to exceed the base height limit for certain portions of the roof. The Commission found that the increased building height was supportable due to existing grade differentials on-site<sup>1</sup>. Before the existing residence was developed, the site was raw land with rocky and sandy areas. As a result, an environmental document was also reviewed and accepted as part of the Variance approval (Attachment No. CD 3).

<sup>&</sup>lt;sup>1</sup> The California Coastal Commission approved Coastal Development Permit No. 5-87-165, on March 26, 1987, for the original development of the site. Part of the approval required development stringlines to protect the environment and coastal views. (See Attachment No. CD 4 for the exhibit of the development stringline for the main residence and accessory structures.)

Under the current Newport Beach Municipal Code (NBMC) development standards, the height limit for R-1-zoned lots is 24 feet for flat roof elements and 29 feet for sloped roofs with a minimum 3:12 pitch.<sup>2</sup> The existing roof as approved consists of both flat and sloping roof elements. The highest flat roof elevation approved by VA1139 is 28 feet, which is 4 feet above the flat height limit. For sloping roofs, VA1139 allowed the highest ridge at 30.18 feet, which is 1.18 feet above the sloped height limit.

# II. PROPOSED CHANGES

The Applicant requests to substantially remodel the existing residence. The proposed remodel of the structure will result in a net reduction of approximately 88 square feet. Construction is not proposed nor authorized bayward of the existing structure.

The single-family remodel will be in conformance with Variance No. VA1139. Proposed improvements include the following:

- Remodel of the entire residence;
- Remove and reconstruct portions of the existing roof in conformance with height limits of VA1139 and the NBMC;
- Convert 435 square feet of garage space into a storage room (355 sq ft) and bathroom (approximately 80 sq ft);
- Remove 88 square feet of gross floor area;
- Demolish and reconstruct 34 percent of the existing exterior walls and a portion of the roof within the existing building footprint;
- Modify front entry approach, with the addition of a water feature and stairs; and
- Improve exterior facades, including a trellis on the second floor, new windows, doors, and skylight.

Further details of the project are provided in the Applicant's Project Description (Attachment No. CD 2).

#### III. <u>FINDINGS</u>

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the NBMC, the Community Development Director may authorize minor changes to an approved site plan, architecture, or nature of the approved use without a public hearing, and waive the requirement for a new variance application. In this case, the proposed changes are minor because the renovation would primarily serve to update the existing architecture and modernize the residence; no land use changes are proposed that would result in a major change to the site. The overall footprint of the development will not increase as part of the proposed project. The renovation would also result in a net reduction in floor area. This determination is based on the following findings and facts in support of the findings.

A. [The changes a]re consistent with all applicable provisions of this Zoning Code;

 $<sup>^{2}</sup>$  When Variance No. 1139 was approved, the sloped height limit was 28 feet, so some portions of the roof that were part of the variance are "conforming" under the current 29-foot height limit from the Municipal Code.

#### Facts in Support of Finding:

- 1. The project is in the R-1 Zoning District, which is intended for and allows single-family residences.
- 2. The proposed improvements to the residence comply with the development standards of height, setbacks, and maximum floor area. Remodeling of the existing structure would not introduce any nonconformities or deviations to the site that were not specifically allowed through the granting of VA1139. The resulting structure would not exceed height limits specified in the approved variance, nor would the proposed improvements result in a requirement for additional parking. Lastly, the proposed renovation project would result in a reduction of floor area.
- 3. VA1139 was approved to allow the construction of a two-story, 4,440-squarefoot single-family residence with several roof areas over the base height limit. The Variance allowed portions of the existing roof to exceed the 24/28 foot maximum height limit of the Zoning Code at that time.
- 4. As demonstrated by the structure's stringline exhibit (Attachment No. CD 4) and the Applicant's roof exhibit (Attachment No. CD 5), the improvements are following the existing variance. Much of the roof area is existing to remain with new finish. The areas of removed roof do not orient toward the bay but are located near the center of the site and adjacent to the street.
- 5. Portions of the over-height roof allowed by Variance No. VA1139 are existing to remain. Proposed changes to the roof do not intensify the existing over height portions of the roof allowed by the variance and is in compliance with the 24/29-foot height limits. The resulting habitable floor area is 3,219 square feet, which remains below the 4,000-square-foot threshold requiring a third parking space under the Zoning Code.
- 6. The total gross floor area of the structure, including the basement/garage, decreases to 4,351 square feet, and remains below the maximum allowable floor area of 4,440 square feet established by VA1139.

#### 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. A negative declaration was prepared for the original construction of the residence and accepted as part of VA1139's approval (February 19, 1987). See Attachment No. CD 3 for a copy of the Negative Declaration and associated migration measures. However, there are no features of the proposed project that would change the basis of the findings or mitigation measures. The project consists of a remodel to the existing residence with no further encroachments into required setbacks, development stringlines, and alterations to the roof would comply with current height limits.
- 2. The proposed project decreases the floor area of the existing single-family residence from 4,440 square feet to 4,351 square feet and remains eligible for a categorical exemption under Class 1 (Existing Facilities) of the Guidelines for CEQA. This exemption includes projects that do not exceed 50 percent of the floor area of the structures before the addition, or 2,500 square feet, whichever is less. The proposed remodel to an existing single-family residence remains would reduce the existing floor area by 88 square feet, which qualifies for the Class 1 exemption.

# 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.

- 1. The proposed remodel does not involve a feature that was specifically addressed in the staff report, meeting minutes, or subject to a condition of approval for Variance No. VA1139.
- 2. The modified plan demonstrates ability to comply with all required conditions of approval, and said conditions will continue to be required through project implementation.
- 3. The Planning Commission found in 1987 that the increased building height was necessary for the preservation and enjoyment of substantial property right of the applicant because grade differentials severally restrict the ability to design a home within the basic height limit. This condition is maintained by the project and the proposed modifications to the existing roof adhere to requirements of VA1139 and the NBMC development standards.
- 4. Staff conducted a site investigation at the nearest designated coastal viewpoint (Lookout Point) approximately 200 feet east of the site. The project site sits approximately 53 feet below Lookout Point and is separated by three

developed single-family lots. Because of the grade differential and existing development, the improvements would blend into the current visual environmental and are not expected to adversely affect public views.

- 5. Following VA1139's Condition of Approval No. 2, the residence would not contain more than 4,441 square feet of gross floor area. The total gross floor area proposed by the project is 4,351 square feet.
- 6. Pursuant to VA1139's Condition of Approval No. 17, the development of the site cannot encroach into the areas required for setback yards as established by the California Coastal Commission and the City of Newport Beach, whichever is greater. The project complies with all applicable setbacks and does not encroach further bayside.
- 7. The California Coastal Commission approved Coastal Development Permit No. 5-87-165, on March 26, 1987, for the original development of the site. Part of the approval required development stringlines to protect the environment and coastal views. (See Attachment No. CD 4 for the exhibit of the development stringline for the main residence and accessory structures.) The project respects the structure stringlines as identified and improvement do not project farther bayward.

#### Finding:

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

#### Facts in Support of Finding:

- 1. The remodel of the existing residence does not result in a change of use of the existing single-family dwelling. The remodel allows for the property owner to update their home. The remodel does not result in an intensification of use or bedrooms.
- 2. The maximum height of the residence would remain the same and overheight portions of the roof allowed by the variance would not be intensified by the project.

# IV. <u>CONDITIONS</u>

All previous findings and conditions of approval of Use Permit No. VA1139 shall remain in full force and effect as stated in Attachment No. CD 3, with the addition of the following conditions:

1. All applicable conditions of approval for Variance No. VA1139 shall remain in effect.

- 2. The development shall be in substantial conformance with the revised site plan, floor plans, and building elevations found in Attachment No. CD 6.
- 3. <u>After demolition and prior to framing</u>, the architect of record shall certify that less than 50percent of exterior walls have been removed and will require replacement. The architect of record shall provide the applicable documentation to the Community Development Director for review. If it is determined that 50 percent or more of exterior walls have been removed during construction, all project work shall cease and the project shall be subject to applicable requirements of the Zoning Code and Local Coastal Program Implementation Plan which may include, but are not limited to, a Coastal Development Permit. The applicant understands that this may result in project delays or denial, and possible economic hardship.
- 4. This approval does not relieve the applicant of compliance with other City requirements. A building permit shall be required for any improvements.
- 5. Fire sprinklers shall be required for the project.
- 6. Project shall comply with flood mitigation standards for substantial improvements.
- 7. Emergency Egress serving sleep rooms and basements shall open directly onto a court/yard that is clear and open to sky leading to public right of way.
- 8. 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 Shell Street Residence including, but not limited to, Staff Approval No. SA2021-003 (PA2021-137). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant. City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

**APPEAL PERIOD**: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the

Shell Street Residence PA2021-137 January 14, 2022 Page 7

action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

On behalf of Seimone Jurjis, Community Development Director,

Patrick Achis Assistant Planner

BMZ/pda

Attachments:	CD 1 Vicinity Map
	CD 2 Applicant's Project Description
	CD 3 VA1139
	CD 4 Structure Stringlines from CDP No. 5-86-612
	CD 5 Roof Exhibit
	CD 6 Project Plans

# Attachment No. CD 1

Vicinity Map

# VICINITY MAP



# Staff Approval No. SA2021-003 PA2021-137 **2717 Shell Street**

Applicant's Project Description

### TO: City Of Newport Beach Building Division

## PROJECT : 2717 Shell St

FROM: Anthony Ruzittu (Mcclean Design), anthony@mccleandesign.com 714-505-0556

RE: Shell Street Residence

The project consists of remodeling the house located at 2717 Shell St, originally built in the late 1980s. While the project aims to preserve most of the existing building envelope and structure, we are proposing to relocate and remove a small amount of square footage. The project is also under a series of restrictions, recorded during the first permit issuance. These same restrictions are summarized as the following: -

- The floor area of the residence is limited to the square footage shown on the original permit of 440.70 SF
- The lot is limited to a single-family dwelling
- No development shall occur bayward of any structures shown in the permitted plans
- No part of the main residence must encroach beyond the stringline
- The project takes into account of all current restrictions, the following descriptions are a summary of the work being proposed and how these same changes are considered to be compliant with the restriction currently in place.

Exterior Improvements Front yard enclosed building setback increase by the removal of the bow window overhanging above the garage ramp and 2nd floor bathroom facing the front yard. This change will reduce the overall square footage of the house and help further minimize impact of the house from any point of view, especially from Shell St and the homes on the opposite side of the street. New balconies are proposed in lieu of the volume reductions to help articulate the front yard elevation, increase full height opening for maximized ventilation and exterior access to all bedrooms of the house.

Entry: Currently the outdoor entry path is jogged out towards the property line, leaving no space for planting or privacy screening between the two lots. We are proposing to add a water feature for privacy between the two property entrances and simplifying the entry walkway by removing the existing jog and pilasters. This will be a reduction in square footage. Additional alterations to the exterior walls are being proposed such as filling in windows, the addition of new openings and the removal of decorative features such as moldings, cornices, dormers, balconies, sills, railings etc. Because of the occasional water being brought in by the wave splashing against the rocks, we are proposing a 6" floor raised floor over pedestal system for the entire rear deck which will help drain the water away from the living areas more efficiently. The pedestal system will be secured in place, but it is not to be considered as a permanent structure.

Roof: See attached Roof Exhibit for proposed modifications.

VA1139

### FINDINGS FOR DENIAL OF USE PERMIT NO. 3249 AND FINDINGS AND CONDITIONS OF APPROVAL FOR VARIANCE NO. 1139 AND RELATED ENVIRONMENTAL DOCUMENT

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### Use Permit No. 3249

### A. ENVIRONMENTAL DOCUMENT

### Finding:

 That the environmental document is complete and has been prepared in compliance with the California Environmental Quality Act (CEQA), the State EIR Guidelines and City Policy; however, no action is required on an environmental document in conjunction with a project that is denied.

### B. USE PERMIT NO. 3249

### FINDINGS:

- That the increased building height will not result in more public visual open space and views than is required by the basic height limit.
- That it has been determined that all of the criteria necessary to permit an increase of the basic height limit, as set forth in Section 20.02.035, have not been met.
- 3. That the approval of Use Permit No. 3249 will, under the circumstances of this case be detrimental to the health, safety, peace, morals, comfort and general welfare of persons residing and working in the neighborhood and be detrimental or injurious to property and improvements in the neighborhood and the general welfare of the City.

#### Variance No. 1139

A. ENVIRONMENTAL DOCUMENT: Accept the environmental document, making the following findings:

- That an Initial Study and Negative Declaration have been prepared in compliance with the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and Council Policy K-3.
- That the contents of the environmental document have been considered in the various decisions on this project.

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 The project will not have any significant environmental impact.

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B. Variance No. 1139: Approve the Variance with the Findings and subject to the Conditions below:

#### FINDINGS:

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- 1. That there are exceptional or extraordinary circumstances applying to the land, building, and use proposed in this application, which circumstances and conditions do not generally apply to land, building, and/or uses in the same district inasmuch as the lot has substantial grade differentials due to rocky and sandy areas within the lot area.
- 2. That the granting of a variance to allow the structure to exceed the basic height limit in the 24/28 Foot Height Limitation District is necessary for the preservation and enjoyment of substantial property rights of the applicant, inasmuch as the grade differentials severely restrict the ability to design a home within the height limit.
- That the size of the lot does not unduly limit the ability to design a home with adequate living space.
- 4. That the establishment, maintenance, and operation of the use, property, and building 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.

### CONDITIONS:

- That development shall be in substantial conformance with the approved plot plan, floor plans and elevations, except as noted below.
- That the residence shall not contain more than 4,441± sq. ft. of gross floor area (1.46 x buildable area).

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3. That all improvements be constructed as required by ordinance and the Public Works Department.

- 4. That a wave action study be prepared by a civil engineer, and that the proposed structure be protected in conformance with the recommendations of the study and to the satisfaction of the Building Department and Marine Department.
- 5. That the design of the proposed driveway be revised at the property line to provide a maximum grade break of 12%.
- The design of the driveway shall be subject to review and approval by the Traffic Engineer.
- That the applicants shall record a covenant to hold the subject property as a single building site in accordance with Section 20.87,090 of the Newport Beach Municipal Code.
- 8. That any construction within the intertidal zone, unless otherwise prohibited by the Coastal Commission, shall be subject to the issuance of a Harbor Permit.
- Development of the site shall be subject to a grading permit to be approved by the Building and Planning Departments.
- 10. That a grading plan, if required, shall include a complete plan for temporary and permanent drainage facilities, to minimize any potential impacts from silt, debris, and other water pollutants.
- The grading permit shall include a description of haul routes, access points to the site, watering, and sweeping program designed to minimize impact of haul operations.
- 12. An erosion, siltation and dust control plan, if required, shall be submitted and be subject to the approval of the Building Department and a copy shall be forwarded to the California Regional Water Quality Control Board, Santa Ana Region.
- 13. That grading shall be conducted in accordance with plans prepared by a Civil Engineer and based on recommendations of a soil engineer and an engineering geologist subsequent to the completion of a comprehensive soil and geologic investigation of the site. The soils investigation shall include a detailed slope stability analysis. Permanent reproducible copies of the "Approved as Built" grading plans on standard size sheets shall be furnished to the Building Department.

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- 15. Prior to issuance of building permits, the applicant shall agree to participate in a compensation program for the loss of intertidal area which shall be commensurate with the replacement costs of the intertidal habitat, not to exceed \$3,000.00, provided that the City and the various agencies involved in regulation of Newport Bay have established such a program.
- 16. That the lighting system shall be designed and maintained in such a manner as to conceal the light source and to minimize light spillage and glare to the adjacent residential uses. the plans shall be prepared and signed by a Licensed Electrical Engineer; with a letter from the Engineer stating that, in his opinion, this requirement has been met.
- 17. That development of the site not be allowed to encroach into the areas required for setback yards as established by the California Coastal Commission and/or the City of Newport Beach, whichever is greater.
- 18. That this variance shall expire unless exercised within 24 months from the date of approval as specified in Section 20.82.090 A of the Newport Beach Municipal Code.

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CITY OF NEWPORT BEACH

P.O. BOX 1768, NEWPORT BEACH, CA 92658-8915

# **NEGATIVE DECLARATION**

TO: Office of Planning and Research 1400 Tenth Street, Room 121 Sacramento, CA 95814

> County Clerk of the County of Orange P.O. Box 338 Santa Ana, CA 92702

FROM:

Planning Separtmens City of Nowport Beach P.O. Box 1768 Newport Beach, CA 92658-8915

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NAME OF PROJECT: Schroeder Residence - UP 3249

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PROUBER LOCATION: 2717 Shell Street, Newport Beach

PROJECT DESCRIPTION: Construction of a detached single-family residence.

FINDING: Pursuant to the provisions of City Council Policy K-3 pertaining to procedures and guidelines to implement the California Environmental Quality Act, the Environmental Affairs Committee has evaluated the proposed project and determined that the proposed project will not have a significant effect on the environment.

MITIGATION MEASURES:

Please see attachment.

INITIAL STUDY PREPARED BY: The City of Newport Beach

INITIAL STUDY AVAILABLE FOR REVIEW AT: 3300 Newport Boulevard, Newport Beach. CA

DATE RECEIVED FOR FILING: Environmental Coordinator DATE: December 31, 1986

EXERDIT FOR A7

3300 Newport Boulevard, Newport Beach

APPENDIX I

ENVIRONMENTAL CHECYLIST FORM

Environmental Checklist Form (To Be Completed By Leed Agency)

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		Reduction of the numbers of any unique rare or endangered species of animal			1
		Introduction of new species of ani- mals into an area, or result in a barrier to the migration or movement of animals?			
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		d.	Parks or other recreational facilities?			·
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19. <u>Recreation</u>. Will the proposal result in an impact upon the quality or quantity of existing recreational opportunities?

Υ.

YES

MAYBE

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20. Archeological/Historical. Will the proposal result in an alteration of a significant archeological or historical site, structure, object or building?

### 21. Mandatory Findings of Significance.

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- s. Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining 'evels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?
- b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals? (A short-term impact on the environment is one which occurs in a relatively brief definitive period of time while longterm impacts will endure well into the future.)
- c. Does the project have impacts which are individually limited, but cumulatively considerable? (A project may impact on two or more separate resources where the impact on each resource is relatively small, but where the effect of the total of those impacts on the environment is significant.)
- d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

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- III. Discussion of Environmental Evaluation
- IV. Retermination (To be completed by the Lead Agency)

On the basis of this initial evaluation:

- I find that the proposed project COULD NOT have a significant effect on the environment, and a NECATIVE DECLARATION will be prepared.
- X I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A MECATIVE DECLARATION will be prepared.

\_\_\_\_\_ I find the proposed project KAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

31 December 1986

Date

Tahua Timple

For The City of Newport Reach

(Note: This is only a suggested form. their own format for initial studies.)

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#### SCHROEDER RESIDENCE - UP 3249

- la,b,c. Implementation of the project shall result in changes in geologic substructures and topography due to the proposal to adjust the natural sandy grade. Displacement and compaction of the soil shall also result as a consequence of the sanding and grading of the sandy intertifal zone, necessary for completion of the project. Mitigation measures incorporated into the project shall reduce effects to an insignificant level.
- 1d,f. The proposed project will modify and change the deposition of the sandy intertidal zone on-site, which is considered a unique geologic feature. Effects shall be insignificant upon compliance with mitigation measures to be incorporated into the project.
- 2b. The project as proposed may result in the creation of objectionable odors during the course of construction due to the possible release of marine soil gases and/or construction materials and methods. Such effects are short term in nature and will be alleviated upon completion of the project and are, therefore, insignificant.
- 3b. Implementation of the proposal shall result in changer in absorption rates and drainage patterns on-site, due to the overcovering of previously vegetated property. Such effects are not anticipated to be significant.
- 31. The proposed project may expose people and property to water-related hazards such as flooding or tidal waves. Such potential effects are due to the property's close proximity to the ocean. No significant effects are anticipated.
- 6a. Implementation of the proposal shall result in an increase in noise level, due to use of machinery during construction. Such effects are temporary and are, therefore, insignificant.
- 7. The proposed project shall produce new light and glare, yet the effects shall not significantly effect neighboring residences upon compliance with mitigation measures incorporated into the project.
- 13b. The proposed project shall demand new parking. Such parking shall be located on-site, and therefore, the effects shall be insignificant.
- 18. The proposal shall result in a slight obstruction (not more than five percent (5%) of the total panorama) of a scenic vista of the entrance channel that is open to the public from the bluff top above and behind the project site. Given

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the minimal impairment of the public view, and the distance the improvements will be required to be setback from the property line (as dictated by the standards of the California Coastal Commission, more than normally required by the City's requirements), the effects are rendered nominal and insignificant.

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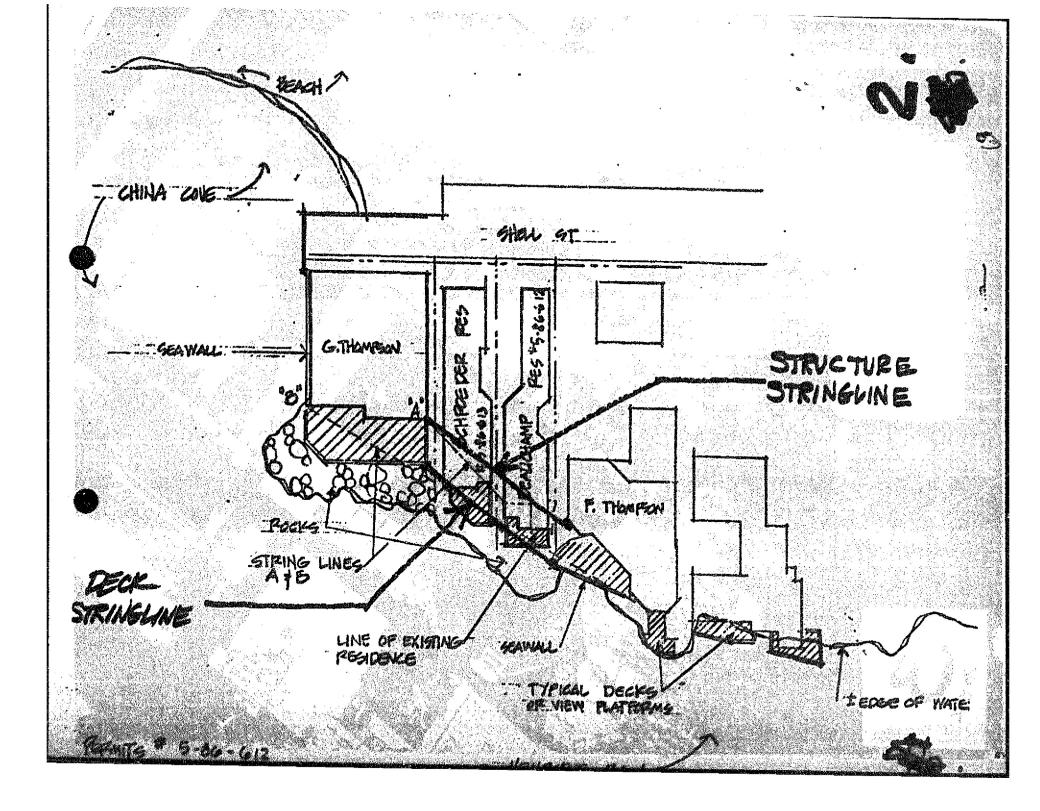
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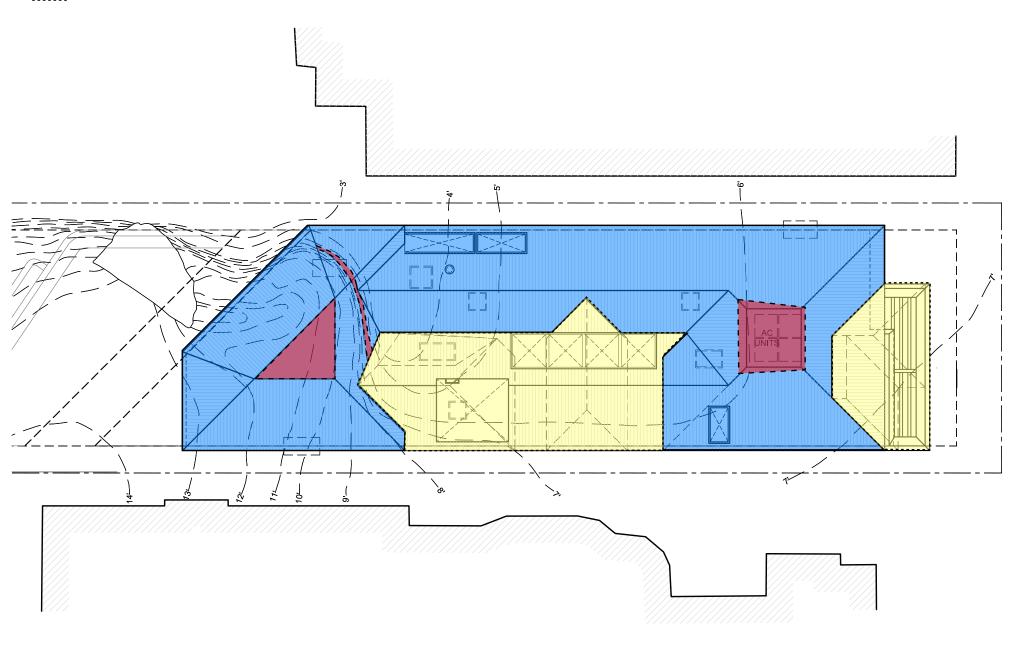


Roof Exhibit

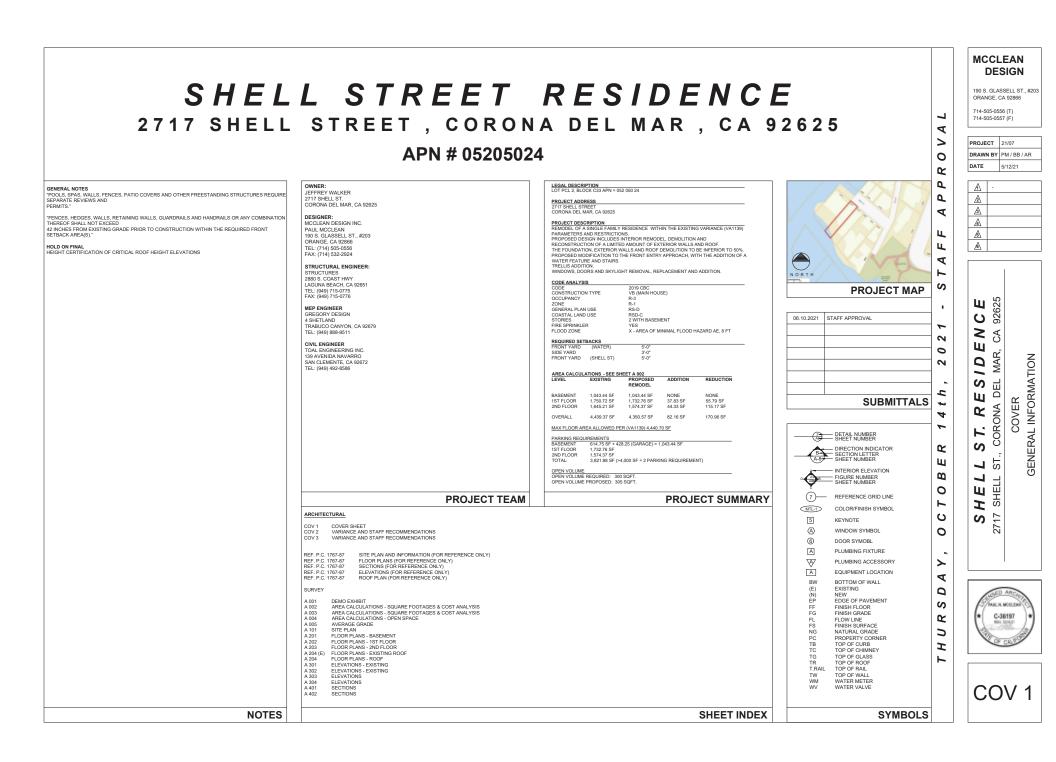
Roof to remain. Roofing finish replacement. Roof height below 24' for flat roofs (less than 3/12) and 29' for sloped roofs (more than 3/12) as required by the zoning code

Roof to remain. Roofing finish replacement. Roof height exemption as determined by Variance 1139

Roof to be removed/remodeled. Roof height below 24' for flat roofs (less than 3/12) and 29' for sloped roofs (more than 3/12) as required by the zoning code



Project Plans



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CONDITIONS FOR APPROVA

STAFF

MCCLEAN DESIGN

ORANGE, CA 92866

714-505-0556 (T)

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