



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending September 30, 2022.

ZONING ADMINISTRATOR ACTIONS SEPTEMBER 29, 2022

- Item 1: 521 Iris Partners, LLC Tentative Parcel Map No. NP2022-004 (PA2022-032)
Site Address: 521 and 521 ½ Iris Avenue
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| Action: Approved by Resolution No. ZA2022-060 | Council District | 6 |
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- Item 2: Breakers Drive Lot Line Adjustment No. LA2022-001 (PA2022-083)
Site Address: 3150 and 3200 Breakers Drive
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| Action: Approved by Resolution No. ZA2022-061 | Council District | 6 |
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- Item 3: Del Mar Roasters Minor Use Permit No. UP2022-009 (PA2022-086)
Site Address: 3348 East Coast Highway
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| Action: Approved by Resolution No. ZA2022-062 | Council District | 6 |
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- Item 4: Seaward Road, LLC Lot Merger No. LM2022-001 (PA2022-096)
Site Address: 564 Seaward Road
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| Action: Approved by Resolution No. ZA2022-063 | Council District | 6 |
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- Item 5: CR Family Trust Residence Coastal Development Permit No. CD2022-029 (PA2022-116)
Site Address: 5007 Seashore Drive
- | | | |
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| Action: Approved by Resolution No. ZA2022-064 | Council District | 1 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2022-060

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING TENTATIVE PARCEL MAP NO. NP2022-004 FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 521 AND 521 ½ IRIS AVENUE (PA2022-032)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Commercial Development Resources (Applicant), with respect to property located at 521 and 521 ½ Iris Avenue, and legally described as Lot 21, Block 535, of the Corona del Mar Tract requesting approval of a tentative parcel map for condominium purposes.
2. The applicant requests a tentative parcel map for two (2)-unit condominium purposes. A two (2)-unit residence is proposed to be demolished and a new residential structure that will be divided into two (2) condominium units will be constructed. The tentative parcel map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on September 29, 2022, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Class 15 Exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. The lot is flat, there are no prior subdivisions

on this lot, the new two (2)-unit condominium will conform to all development standards, and therefore, the project is consistent with and eligible for the Class 15 Exemption.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The project site was previously developed as a duplex. The site is currently under construction with a new duplex and the proposed subdivision and improvements will continue to be consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Iris Avenue and Third Avenue frontages and alley, as needed. Utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC).

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a duplex because it is relatively flat and rectangular. It was also previously developed with a two (2)-unit residence.
2. The subject property is accessible from Iris Avenue, Third Avenue, and the alley in the rear.
3. The site is adequately served by existing utilities, as the site was previously developed with a two (2)-unit residence.

Finding:

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

Facts in Support of Finding:

1. The property is located within an existing residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines. Section 2 of this Resolution is hereby incorporated by reference.

Finding:

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

Fact in Support of Finding:

1. The Tentative Parcel Map is for condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local agencies to regulate and control design of subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

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

Fact in Support of Finding:

1. The Public Works Department has reviewed the proposed Tentative Parcel Map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development because no public easements are located on the property.

Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in the R-2 Zoning District, which is intended for and permits residential uses.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The proposed duplex is consistent with the R-2 Zoning District, which allows up to two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing needs.

Finding:

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

Fact in Support of Finding:

1. The project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

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

Fact in Support of Finding:

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

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2022-004, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development an appeal is filed with the City Council in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 29th DAY OF SEPTEMBER, 2022.



Jaime Murillo
Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Subsequent to the recordation of the Parcel Map, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development shall not be condominiums available for individual sale of the units until this description change permit is final.
3. The building permit for the new construction shall not be final until after the recordation of the parcel map.
4. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Tentative Parcel Map.
6. *This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 19 Subdivisions of the NCMC.*
7. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 **521 Iris Avenue Partners, LLC** including, but not limited to, **Tentative Parcel Map No. NP2022-004 (PA2022-032)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages that which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

8. Prior to the issuance of final building permits, a Parcel Map shall be recorded. The Map shall be prepared on the California coordinate system (North American Datum of 1983, NAD83). Prior to the recordation of the Map, the surveyor/engineer preparing the map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of the said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.
9. Prior to the recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one (1)-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of the construction project.
10. All improvements shall be constructed as required by Ordinance and the Public Works Department.
11. An encroachment permit is required for all work activities within the public right-of-way.
12. *Prior to the recordation of the parcel map, the existing broken and/or otherwise damaged concrete curb, gutter, the sidewalk along the Iris Avenue and Third Avenue frontages and all damaged alley panels shall be reconstructed per City Standard.*
13. *Each unit shall be served by its water service/meter and sewer lateral/cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.*
14. *Prior to the recordation of the parcel map, the applicant shall all existing overhead utilities shall be undergrounded.*
15. *Above-ground improvements shall not be permitted within the 5-foot alley setback area.*
16. *Prior to the recordation of the parcel map, the applicant shall remove the existing decorative carriage walk and install new sod or low ground cover in its place.*
17. *Prior to the recordation of the parcel map, the applicant shall install new sod and low groundcovers of the type approved by the City throughout the Iris Avenue and Third Avenue parkways fronting the development site.*
18. *Prior to the recordation of the parcel map, the applicant shall install a new street tree on the Iris Avenue or Third Avenue frontages.*

19. All improvements shall comply with the City's sight distance requirement. See City Standard 105.
20. No structural encroachments are permitted within the public right of way including but not limited to walls, foundation, stairs, etc.
21. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way shall be required at the discretion of the Public Works Inspector.

Building Division

22. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.

RESOLUTION NO. ZA2022-061

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LOT LINE ADJUSTMENT NO. LA2022-001 TO ADJUST THE BOUNDARY BETWEEN TWO (2)- CONTIGUOUS PARCELS LOCATED AT 3150 AND 3200 BREAKERS DRIVE (PA2022-083)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Apex Land Surveying, Inc (Applicant) on behalf of the property owners, with respect to properties located at 3150 and 3200 Breakers Drive, and legally described as Lot 10 and Lot 11, respectively, of Tract No. 1026, requesting approval of a lot line adjustment.
2. The Applicant proposes to adjust the interior lot line between two (2)- contiguous properties that are developed with single-family residences. Approximately 48 square feet of land will be taken from 3150 Breakers Drive (Parcel 1) to be added to the adjacent parcel at 3200 Breakers Drive (Parcel 2). There will be no net change in the number of parcels.
3. The properties are categorized as Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and are located within the Single-Unit Residential (R-1) Zoning District.
4. The properties are located within the Coastal Zone. The properties are categorized as Single Unit Residential Detached (RSD-A) - (0.0 – 5.9 DU/AC) by the Coastal Land Use Plan and are located within the R-1 (Single-Unit Residential) Coastal Zoning District. The proposed project does not require a Coastal Development Permit, as the Lot Line Adjustment does not result in a change to the density or intensity of the properties and is not considered development under the definition of development provided in Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code (NBMC).
5. A public hearing was held on September 29, 2022, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the NBMC. Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) 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 5 exemption applies to projects which are minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density; including minor lot line adjustments, side yard and setback variances not resulting in the creation of any new parcel. The Lot Line Adjustment will not result in a change in use or density and is consistent with the requirements of the Class 5 exemption.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.76.020 (Procedures for Lot Line Adjustments) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The purpose and intent of Chapter 19.76 (Lot Line Adjustment) of the NBMC is to allow for lot line adjustments. A lot line adjustment is defined as a minor boundary adjustment involving four (4)- or fewer adjacent lots or parcels where the land taken from one (1)-parcel is added to an adjacent parcel with the original number of parcels remaining unchanged after the adjustment. The proposed project will modify the interior boundary between two (2)- contiguous parcels to take a portion of land that is 4 feet wide by 12 feet long from Parcel 1 and add it to Parcel 2. The adjusted boundary will allow for an on-grade spa originally built over the property line in 1980 to be located entirely within Parcel 2. There will be no change to the overall number of lots. The project is consistent with the definition of a lot line adjustment and the overall purpose and intent of Chapter 19.76 (Lot Line Adjustment).
2. The project does not negatively impact surrounding landowners as the adjustment affects a small portion of an interior property line between two (2) adjacent parcels. There should be no impact on surrounding neighbors.
3. Public improvements and infrastructure currently exist within the neighborhood and the Lot Line Adjustment will not result in the need for additional improvements and/or facilities.

Finding:

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

Fact in Support of Finding:

Fact 1 in support of Finding A is hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. The project will adjust a 12 foot-long portion of the interior boundary line between the subject properties. The area of adjustment is towards the middle of the lot line, approximately 57 feet north of the front property line and 73 feet south of the rear property line. The lot depth and overall lot width of the resulting parcels are unaffected by the project.
2. Setbacks applicable to properties within the R-1 Zoning District shall continue to apply to the adjusted parcels in the same way that they applied to the previous parcel configuration.
3. The subject properties are located within the Bluff (B) Overlay District. NBMC Sections 20.28.040 (Bluff (B) Overlay District) and 21.28.040 (Bluff (B) Overlay District) establish development areas for the purpose of regulating the placement and location of structures. The existing spa is in what both NBMC Section 20.28.040 and 21.28.040 define as Development Area A. Spas and hot tubs are considered accessory structures and accessory structures are allowed in Development A.
4. The resulting parcels will comply with all applicable regulations of Title 20 (Planning and Zoning) of the NBMC and there will be no change in allowed land uses density, or intensity on the properties.

Finding:

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

Fact in Support of Finding:

Legal access to the subject properties is taken from Breakers Drive and will not be affected by the Lot Line Adjustment.

Finding:

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

Facts in Support of Finding:

1. Vehicular access to both properties is currently taken from Breakers Drive. The final configuration of the subject properties will not result in the loss of the existing direct vehicular access.
2. There are no alleys located within or near the subject parcels.

Finding:

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

Fact in Support of Finding:

The project will not reorient the lots and no revised or reduced setbacks are required.

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 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2022-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions), of the NBMC.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF SEPTEMBER 2022.



Jaime Murillo
Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. *Prior to the Recordation of the Lot Line Adjustment, the Applicant shall submit the Lot Line Adjustment exhibits to the Public Works Department for final review and approval. All applicable fees shall be paid.*
3. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
4. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless the 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 **Breakers Drive** including, but not limited to **Lot Line Adjustment No. LA2022-001 (PA2022-083)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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 the City's costs, attorney's fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2022-062

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING MINOR USE PERMIT NO. UP2022-009 FOR A TAKE-OUT SERVICE, LIMITED EATING AND DRINKING ESTABLISHMENT (COFFEE SHOP) LOCATED AT 3348 EAST COAST HIGHWAY (PA2022-086)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ray F&B, LLC (Applicant), with respect to property located at 3348 East Coast Highway, and legally described as Lot 5 of Block S of Tract No. 323, requesting approval of a minor use permit.
2. The Applicant requests a minor use permit to allow the establishment of an 836-square-foot coffee shop (i.e., a take-out service, limited use) with 187 square feet of customer seating area (maximum of six seats), a roaster area, and a kitchen. As proposed, there will be no alcohol sales and service and no late hours (beyond 11:00 p.m.).
3. The subject property is categorized as Corridor Commercial (CC) by the General Plan Land Use Element and is located within the Commercial Corridor (CC) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on September 29, 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) 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. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves alterations to the interior floor plan of an existing, previously occupied commercial space with no expansion in the floor area.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The General Plan land use category for this site is CC (Corridor Commercial), which is intended to provide 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.
2. The proposed coffee shop is in a distinct commercial area along East Coast Highway. While the tenant space is adjacent to a residential neighborhood, it is oriented toward Coast Highway and away from the residential area to the north. The proposed coffee shop would provide a new food and beverage option for residents, as well as for visitors to the area and those traveling along the highway. For these reasons, the proposal is consistent with the CC land use category.
3. The proposed coffee shop is complementary to the surrounding commercial uses, which include a sushi restaurant, bakery, and hair salon. It also provides a service to residents nearby on Marigold Avenue and the surrounding village of Corona del Mar.
4. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. A coffee shop (take-out service, limited) is permitted with the approval of a minor use permit in the CC (Commercial Corridor) Zoning District. A minor use permit is required due to its proposed location within 500 feet of a residential zoning district. The nearest residential district is 15 feet away across the alley to the north.
2. The development on the subject property is legal, and nonconforming due to there being only four (4) parking spaces available on-site. The subject property includes two (2) commercial suites (3344 and 3348 East Coast Highway). The adjacent suite (3344), which is currently occupied by Sota Sushi, has been used as a restaurant since 1954. The subject suite (3348) has been occupied by a variety of commercial uses, with the

immediate-past tenant being a dry cleaner (personal service, general) use. Title 20 (Planning and Zoning) of the NBMC requires one (1) parking space per 250 square feet of the gross floor area of off-street parking for both a personal service, general and take-out service, and limited use. Therefore, no intensification or enlargement is proposed, and no additional parking is required.

3. As conditioned, the proposed coffee shop will comply with Title 20 standards for eating and drinking establishments, including those specific to the take-out service, and limited use classification, which includes a maximum of six (6) seats.

Finding:

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

Facts in Support of Finding:

1. Parking at the subject property is legally nonconforming as there are only four (4) parking spaces available on-site. This includes one (1) parking space that is accessible and compliant with Americans with Disabilities Act (ADA) standards. The proposed coffee shop is replacing an existing personal service land use, which shares the same parking requirement. Therefore, no additional parking is required, and the coffee shop is not anticipated to create negative parking impacts on surrounding uses.
2. The proposed coffee shop is compatible with the existing and allowed uses in the area, which consist of retail commercial, and residential developments.
3. The Applicant is proposing hours of operation between 6:00 a.m. to 6:00 p.m., Monday through Saturday, and 7:00 a.m. to 5:00 p.m. on Sunday. A condition of approval has been included to limit hours of operation between 6:00 a.m. to 6:00 p.m., daily, which will ensure compatibility for parking during even hours for the adjacent restaurant. There will be no late hours permitted (beyond 11:00 p.m.), daily, which will minimize any disturbance to residences near the property.
4. The proposed coffee shop is oriented towards East Coast Highway in a manner that shields the storefront activity from the nearby residential uses on Marigold Avenue.

Finding:

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

Facts in Support of Finding:

1. The project site is located on East Coast Highway between Marguerite and Marigold Avenues, which is a busy commercial corridor with heavy vehicular traffic and pedestrian

activity. Direct vehicular access to the parking lot is available via an alley in the rear of the property, which is accessible from both Marguerite and Marigold Avenues. The proposed coffee shop is not expected to result in increased vehicular and pedestrian activity that would negatively affect access.

2. The proposed coffee shop will occupy an existing commercial tenant space that is served by all necessary utilities. The change in use is not anticipated to create any issues with current utility service providers.
3. The Fire Department reviewed the project and site to ensure adequate public and emergency vehicle access is provided and does not have any concerns.
4. All proposed site and tenant improvements must comply with the NBMC and any other applicable regulations for permits to be issued.

Finding:

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

Facts in Support of Finding:

1. The proposed coffee shop has been reviewed and this resolution includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The business operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The proposed coffee shop will add additional take-out options to the neighborhood and will provide an economic opportunity for the property owner to update the tenant space and provide additional services to residents and visitors.
3. The Applicant is required to obtain Health Department approval prior to opening for business and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.
4. The proposed use includes limited hours, there is no alcohol service proposed, and there is no increased parking demand. Based on an evaluation against the requirements of the NBMC, the proposed use will not result in detriment to the existing retail shopping center or the surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves minor use permit No. UP2022-009 subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF SEPTEMBER, 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 and floor plan stamped with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this use permit.
4. *This use permit, as part of PA2022-086, shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
5. *The maximum number of seats allowed in the coffee shop shall be six (6). No outdoor seating is permitted without further review and may require an amendment to this minor use permit or the processing of a new use permit.*
6. *The hours of operation shall be between 6:00 a.m. to 6:00 p.m., daily.*
7. *The sale of alcohol shall not be permitted.*
8. This minor use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
9. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent review and approval of the Planning Division. Depending on the nature of the request, an amendment to this minor use permit or the processing of a new use permit.
10. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

11. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
12. 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 periods unless the ambient noise level is higher:

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

13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
14. Construction activities shall comply with Section 10.28.040 (Construction Activity-Noise Regulations) of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
15. No outside paging system shall be utilized in conjunction with this establishment.
16. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three (3) walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
18. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
19. The Applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance

with the provisions of Title 14, including all future amendments (including Water Quality related requirements).

20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this Use Permit.
21. Storage outside of the building in the front or at the rear of the property shall be prohibited, except for the required trash container enclosure.
22. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
23. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
24. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the NBMC.
25. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Del Mar Roasters including, but not limited to Minor Use Permit No. UP2022-009 (PA2022-086)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's 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 the City's costs, attorney's fees, and damages which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2022-063

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING LOT MERGER NO. LM2022-001 FOR A MERGER AND WAIVER OF THE PARCEL MAP REQUIREMENT LOCATED AT 564 SEAWARD ROAD (PA2022-096)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Seaward Road, LLC, with respect to the property located at 564 Seaward Road. The lot at 564 Seaward Road is legally described as Lot 175 of Tract 1237, Corona Highlands. The parcel to be merged to the east shares the same address and is legally described as Lot 7 of Tract 14795.
2. The Applicant proposes a lot merger and requests to waive the parcel map requirement for two (2) lots under common ownership. The merger would combine the two (2) legal lots into a single parcel.
3. The subject properties are located within the Single-Unit Residential (R-1-6000) Zoning District and the General Plan Land Use Element category is Single Unit Residential Detached (RS-D).
4. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (0.0 – 5.9 DU/AC) (RSD-A) and the Coastal Zoning District is Single-Unit Residential (R-1-6000). The Lot Merger application does not include nor proposes any change in the density or intensity of land use and is therefore not considered development as defined in Newport Beach Municipal Code (NBMC) Chapter 21.70 (Definitions). For this reason, a coastal development permit is not required.
5. A public hearing was held on September 29, 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 15305 under Class 5 (Minor Alterations in Land Use Limitations) 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 5 exemption includes minor alterations in land use limitations in areas with an average slope of 20percent or less, which do not result in any changes in land use or density including minor lot line adjustments. This exemption includes a minor lot merger

not resulting in the creation of any new parcel or change in density that complies with the conditions specified above.

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, and is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.68.030 (Lot Mergers), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The Lot Merger will not result in the creation of additional parcels by removing the interior lot line between them.
2. The Lot Merger is consistent with the purpose and intent of NBMC Title 19 (Subdivisions), identified in NBMC Subsection 19.04.020 (Purpose and Applicability). The Lot Merger will ensure all development is contained within the property and there is no construction crossing legal property lines.
3. The future development on the proposed parcel will be subject to the NBMC Title 20 (Planning and Zoning) and Title 21 (Local Coastal Program Implementation Plan) development standards, which are intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City while implementing the policies of the Coastal Land Use Plan and the California Coastal Act of 1976.
4. The lots created by Tract No. 14795 were the unincorporated territory of Orange County created in 1993 for conveyance purposes only and are not considered legal building sites per the City's conditions of approval.

Finding:

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

Fact in Support of Finding:

1. The two (2) lots to be merged are under common fee ownership, as evidenced by the Preliminary Title Report submitted with the application.

Finding:

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

Facts in Support of Finding:

1. The merged parcel will retain the Single-Unit Residential (R-1-6000) zoning designation, consistent with the surrounding area. The R-1-6000 Zoning District is intended to provide areas appropriate for a detached single-family residential dwelling unit located on a single lot that is 6,000 square feet or greater in area.
2. The Land Use Element of the General Plan designates the subject site as Single Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units.
3. The Coastal Land Use Plan designates this site as Single Unit Residential Detached (0.0-5.9 DU/AC) (RSD-A), which provides for density ranging from 0.0-5.9 dwelling units per acre. The single-family residential land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
4. Section 20.18.030 of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would result in an approximately 10,377-square-foot parcel that is in conformance to the minimum 6,000-square-foot interior lot area standard of the Zoning Code. The proposed merger would create approximately one (1) 69-foot wide parcel, exceeding the 50-foot minimum width Zoning Code standard.
5. The subject property is located in the Hazardous Reduction Zone and has been conditioned so that any future development of the site must meet the applicable Newport Beach Fire Department fuel modification requirement.
6. The subject property is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger. The existing easterly parcel is landlocked. Legal access from the merged parcels is provided from Seaward Road and will remain unchanged.

Finding:

E. The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making these findings, the review authority may consider the following:

- i. Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
- ii. Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
- iii. Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. Any future development on the merged lots will be required to meet all applicable development standards and, therefore, will not significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.
2. The proposed Lot Merger will create a parcel that is consistent with the character or general orientation of adjacent and/or adjoining lots. Although the current configuration is two (2) lots, the property is used as a single parcel with one (1) single-family residence. As a result, the proposed merger will not result in a visible change in the character of the neighborhood and will continue to allow the property to be used for single-family purposes.
3. The proposed Lot Merger will create a parcel similar in size and configuration to those in the vicinity and neighborhood, and which conforms to the minimum lot width and area standards for the zoning district. See Fact in Support of Finding C (4) above.

Waiver of Parcel Map

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

Finding:

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

Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by NBMC Title 19, the General Plan, and the Coastal Land Use Plan.
2. The subject property 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 categorically exempt from the California Environmental Quality Act pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2022-001, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated for reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 29 DAY OF SEPTEMBER 2022.



Jaime Murillo
Zoning Administrator

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

1. The development shall be in substantial conformance with the approved lot merger exhibits stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this lot merger.
4. *The subject property is identified within the Hazardous Reduction Zone, and any future development shall be required to meet the standards listed per Newport Beach Fire Department Guideline G.01 "Hazard Reduction Zones".*
5. *Prior to the issuance of building permits, for any construction to cross the existing interior lot line between the two (2) lots proposed to be merged, recordation of the Lot Merger documents with the County Recorder shall be required.*
6. All easements shall be plotted, and all easement documents provided upon final map review.
7. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
8. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
9. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 **Seaward Road, LLC, but not limited to Lot Merger No. LM2022-001 (PA2022-096)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or

proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, attorney's fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2022-064

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2022-029 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE WITH AN ATTACHED ACCESSORY DWELLING UNIT AND TWO (2)-CAR GARAGE LOCATED AT 5007 SEASHORE DRIVE (PA2022-116)

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 Trabert & Associates, with respect to property located at 5007 Seashore Drive, requesting approval of a coastal development permit. The lot at 5007 Seashore Drive is legally described as Lot 4 Block 50 in Ocean Front Tract.
2. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing nonconforming duplex and the construction of a new three (3)-story, 2,056-square-foot, single-unit residence with a 365-square-foot attached accessory dwelling unit (ADU). The proposed development includes an attached 479.5 square-foot-two (2)-car garage. The project complies with all applicable development standards and no deviations are requested. The project includes hardscape, walls, landscaping, and drainage facilities. All improvements reviewed under this CDP application are within the confines of private property. Any future encroachments into the West Ocean Front public beach would require a separate review and permit from the California Coastal Commission.
3. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached 20.0-29.9 DU/AC (RSD-D) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
5. A public hearing was held on September 29, 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 two (2)-units (duplex) and the construction of a new 2,056-square-foot, single-family residence with an attached 365-square-foot accessory dwelling unit and attached 479.5-square-foot, two (2)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, and 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) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,528 square feet and the proposed floor area is approximately 2,421 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line along West Ocean Front, 3 feet along each side property line, and 0 feet along the second frontage property line abutting Seashore Drive.
 - c. The highest guardrail is less than 24 feet from the established grade (14.23 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of two (2) vehicles, complying with the minimum two (2)-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story, single-family, and two-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. A Coastal Hazards Report and Sea Level Rise Analysis were prepared by GeoSoils, Inc., dated January 12, 2022, for the project. The report concludes that the proposed project is reasonably safe from shoreline erosion due to the lack of waves or wakes that can erode sand from the beach. The report also concludes that the project will be reasonably safe from future sea level rise assuming an increase up to 10.9 feet NAVD 88 (the likely range for sea level rise over the 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The finished floor elevation of the first floor of the proposed structure is 14.61 feet NAVD88, which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures and exceeds the minimum requirements for future sea level rise (10.9 feet NAVD88).
4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). This requirement is included as a condition of approval that will need to be satisfied prior to the final building permit inspection, respectively.
5. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). This requirement is included as a condition of approval that will need to be satisfied prior to the issuance of building permits, respectively.
6. The property is located in an area known for the potential for seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. The property is located adjacent to the West Ocean Front beach within approximately 325 feet of coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

9. The project site is not located adjacent to a coastal view road or coastal viewpoint identified by Local Coastal Program (LCP) maps. The project site is located within the viewshed of the public beach; however, the project will replace an existing nonconforming duplex with a single-family dwelling and attached accessory dwelling unit that complies with all applicable Local Coastal Program development standards. It will also maintain a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on public views.
10. Opportunities to enhance the visual quality of the coastal zone were also reviewed. The front of the proposed residence, which is visible from the public beach, will contain substantial architectural treatment and visual interest, in keeping with the design guidelines of the Zoning Code. The new structure would comply with required setbacks and provide open decks on the front providing modulation of volume that prevents the appearance of the site from being walled off from the public beach. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on existing public views.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing non-conforming duplex located on a standard R-1 lot with a new single-family residence and attached accessory dwelling unit. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) to not block or impede existing public access opportunities.
2. All proposed development is located within the confines of private property. However, there is an existing 5-foot patio encroachment into the West Ocean Front Beach that is authorized by an existing encroachment permit (dated February 18, 1992) pursuant to Title 21 Appendix C (Oceanfront Encroachment Policy Guidelines). The patio is consistent with the neighborhood pattern of development and does not affect public views or access to the public beach. Any future extension of the patio would require a separate review and permit from the California Coastal Commission.
3. Vertical access to the beach is available approximately 90 feet east of the site at the terminus of 50th Street and approximately 60 feet west of the site at the terminus of 51st

Street. Lateral access is available along the wide beach in front of the site. 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 (Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2022-029, 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 Program (LCP) Implementation Plan, of the Newport Beach Municipal Code. The final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 29TH DAY OF SEPTEMBER 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, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
3. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the development. This letter shall be scanned into the plan set prior to building permit issuance.*
4. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
5. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
6. *Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
7. *Prior to the issuance of a building permit, the Accessory Dwelling Unit (ADU) shall require a deed restriction that prohibits the sale of the ADU separately and prohibits rental or leasing of the ADU for 30 days or less.*
8. *Prior to the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-*

invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.

9. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or results 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.
10. This Coastal Development Permit does not authorize any development seaward of the private property.
11. *Any new development within the existing 5-foot-deep encroachment area, or an extension of the encroachment area pursuant to Title 21 Appendix C (Oceanfront Encroachment Policy Guidelines), shall require a separate review and permit from the California Coastal Commission and a new encroachment permit from Public Works. The owner shall maintain a valid encroachment permit for any off-site patio improvements on public property.*
12. 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 of 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.
13. 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.
14. 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.

15. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterways.
16. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
17. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
18. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
19. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
20. 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 are detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
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. 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 between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
23. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified periods unless the ambient noise level is higher:

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

24. Prior to the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
26. This Coastal Development Permit No. CD2022-029 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code unless an extension is otherwise granted.
27. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the 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 **CR Family Trust Residence including, but not limited to, Coastal Development Permit No. CD2022-029 (PA2022-116)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney’s fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City’s costs, attorney’s fees, and damages, which the 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.