



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 November 11, 2022.

ZONING ADMINISTRATOR ACTIONS NOVEMBER 10, 2022

Item 1: CDM Properties, LLC Residential Condominiums Tentative Parcel Map (PA2022-0191)
Site Address: 419 and 419 ½ Narcissus Avenue

Action: Approved by Resolution No. ZA2022-067 Council District 6

Item 2: LA21G, LLC Residential Condominiums Tentative Parcel Map (PA2022-0206)
Site Address: 512 and 512 ½ Marguerite Avenue

Action: Approved by Resolution No. ZA2022-068 Council District 6

Item 3: Mickool Residence Coastal Development Permit (PA2022-0159)
Site Address: 3407 and 3407 ½ Finley Avenue

Action: Approved by Resolution No. ZA2022-070 Council District 1

Item 4: Rodman Residence Coastal Development Permit (PA2022-0196)
Site Address: 550 South Bay Front

Action: Approved by Resolution No. ZA2022-071 Council District 5

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. ZA2022-067

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A TENTATIVE PARCEL MAP FOR A TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSE LOCATED AT 419 AND 419 ½ NARCISSUS AVENUE (PA2022-0191)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael Chegini of CDM Properties, LLC, with respect to property located at 419 and 419 ½ Narcissus Avenue, and legally described as Lot 9, Block 440, of the Corona Del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. The applicant proposes a tentative parcel map for two (2)-unit condominium purposes. A duplex has been demolished and a new duplex is under construction. The tentative parcel map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is 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 November 10, 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 tentative parcel

map is for a two-unit condominium and will conform to all development standards, and therefore, is 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 NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps):

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The RT General Plan land use designation applies to a range of two family residential dwelling units such as duplexes and townhomes. 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.

Finding:

B. 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 Narcissus 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. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding:

1. The project has been conditioned to require public improvements including the reconstruction of sidewalks, curbs, and gutters along the Narcissus Avenue frontage and alley, as needed. Utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC).
2. 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 located 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 the tentative parcel map (PA2022-0191), 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 10TH DAY OF NOVEMBER, 2022.



Jaime Murillo
Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. After 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.
2. The building permit for the new construction shall not receive final inspection until after recordation of the parcel map.
3. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the Conditions of Approval.
4. 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.
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
6. 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 **CDM Properties, LLC Condominiums including, but not limited to, Tentative Parcel Map (PA2022-0191)**. 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 which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

7. 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). Before 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.**
8. 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 before completion of the construction project.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. An encroachment permit is required for all work activities within the public right-of-way.
11. Prior to the recordation of the parcel map, the applicant shall reconstruct the existing broken and/or otherwise damaged concrete curb, gutter, sidewalk along the Narcissus Avenue frontage, and any damaged concrete panels along the alley frontage.
12. Prior to the recordation of the parcel map, overhead utilities serving the site shall be undergrounded to the nearest appropriate pole in accordance with Section 19.24.140 of the Municipal Code.
13. The rear five (5)-foot setback along the alley frontage shall be clear of all above-ground improvements.
14. Prior to the recordation of the parcel map, all existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed, including parkway hardscape.
15. Prior to the recordation of the parcel map, the parkway along Narcissus Avenue shall be landscaped with turf or drought-tolerant groundcover landscaping.
16. Each unit shall be served by its individual water service/meter and sewer lateral/cleanout.
17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.

18. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Fire Department

19. A separate fire sprinkler system shall be provided for each unit.
20. A three (3)-foot wide walkway shall be provided on at least one side of the lot(s) from Narcissus Avenue to the alley for Fire Department access.

Building Division

21. Separate utility services are required for each unit.

RESOLUTION NO. ZA2022-068

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A TENTATIVE PARCEL MAP FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSE LOCATED AT 512 AND 512 ½ MARGUERITE AVENUE (PA2022-0206)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Thomas E. Decker of Forkert Engineering & Surveying, Inc., with respect to property located at 512 and 512 ½ Marguerite Avenue, and legally described as Lot 14, Block 539, of the Corona Del Mar Tract, requesting approval of a tentative parcel map for condominium purposes.
2. A request for a tentative parcel map for residential condominium purposes. A duplex will be demolished and a new duplex will be constructed (currently in plan check). No waivers of Title 19 (Subdivisions) are proposed. The tentative parcel map will allow each unit to be sold individually.
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 November 10, 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 tentative parcel

map is for a two-unit condominium and will conform to all development standards, and therefore, is 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 NBMC Section 19.12.070 (Required Findings for Action on Tentative Maps):

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The RT land use designation applies to a range of two family residential dwelling units such as duplexes and townhomes. The project site was previously developed as a duplex. The site is currently under review 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.

Finding:

B. 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 Marguerite 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. The design of the subdivision or the type of improvements is not likely to cause serious public health problems.

Facts in Support of Finding:

1. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Marguerite Avenue frontage and alley, as needed. A new street tree, sod, and groundcovers will be planted along Marguerite Avenue. Utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC).
2. 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 two-unit 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 located 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 the tentative parcel map (PA2022-0206), 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 10TH DAY OF NOVEMBER, 2022.



Jaime Murillo
Zoning Administrator

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

1. After 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.
2. The building permit for the new construction shall not be final until after the recordation of the Parcel Map.
3. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the Conditions of Approval.
4. 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.
5. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
6. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **LA21G, LLC Condominiums including, but not limited to, Tentative Parcel Map (PA2022-0206)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

7. 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). Before 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.
8. 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 before completion of the construction project.
9. All improvements shall be constructed as required by Ordinance and the Public Works Department.
10. An encroachment permit is required for all work activities within the public right-of-way.
11. Prior to the recordation of the parcel map, the applicant shall reconstruct the existing broken and/or otherwise damaged concrete curb, gutter, sidewalk along the Marguerite Avenue frontage, and any damaged concrete panels along the alley frontage per City Standard.
12. Prior to the recordation of the parcel map, overhead utilities serving the site shall be undergrounded to the nearest appropriate pole in accordance with Section 19.24.140 of the Municipal Code.
13. The rear five (5)-foot setback along the alley frontage shall remain clear of all above-ground improvements.
14. Prior to the recordation of the parcel map, all existing private, non-standard improvements within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development site shall be removed, including parkway hardscape and raised planter within the Marguerite Avenue right-of-way.
15. Prior to the recordation of the parcel map, the parkway along Marguerite Avenue shall be landscaped with new sod or low groundcovers as approved by the City
16. Prior to the recordation of the parcel map, the applicant shall install a 36-inch box street tree along the Marguerite Avenue frontage. Tree species shall be per City County G-6. Show on the Plans exactly the species/size and location where the new street tree will be

planted. Final approval shall be with the Municipal Operation Department, General Services Division, before installation.

17. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
18. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Fire Department

19. A separate fire sprinkler system shall be provided for each unit.
20. A three (3)-foot wide walkway shall be provided on at least one side of the lot(s) from Marguerite Avenue to the alley for Fire Department access.

Building Division

21. Separate utility services are required for each unit.

RESOLUTION NO. ZA2022-070

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW 3,285-SQUARE-FOOT, THREE (3)-STORY SINGLE-FAMILY RESIDENCE INCLUDING AN ATTACHED JUNIOR ACCESSORY DWELLING UNIT (JADU) AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 3407 and 3407 ½ FINLEY AVENUE (PA2022-0159).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Clifford Mickool, Owner with respect to property located at 3407 and 3407 ½ Finley Avenue, requesting approval of a coastal development permit.
2. The lot at 3407 and 3407 ½ Finley Avenue is legally described as Lot 4 Block 434 of Canal Section.
3. The applicant proposes a coastal development permit (CDP) to allow the demolition of an existing duplex and the construction of a new three (3)-story, 3,285-square-foot, single-unit residence including a 384-square-foot attached junior accessory dwelling unit (JADU). The proposed development includes an attached 463-square-foot-two (2)-car garage. Project implementation includes repairing, reinforcing, and raising the existing bulkhead. The project complies with all applicable development standards and no deviations are requested. The project includes hardscape, walls, landscaping, and drainage facilities.
4. 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.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (20.0-29.9 DU/AC) (RT-D), and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
6. A public hearing was held on November 10, 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, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) Section 15303 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 and construction of up to three (3) single-family residences in urbanized areas. The proposed project consists of the demolition two (2)-units (duplex) and the construction of a new 3,285-square-foot, single-family residence including a 384-square-foot junior accessory dwelling unit and attached 463-square-foot, two (2)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,387 square feet and the proposed floor area is 3,285 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 20 feet along the front property line abutting the Rivo Alto (bay), 3 feet along each side property line, and 5 feet along the street frontage (Finely Avenue). Portions of the existing residence that currently encroach up to 4 inches into the north side setback and 1 inch into the south side setback are proposed to be demolished and the residence reconstructed for setback conformance.
 - c. The highest guardrail is less than 24 feet from established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply 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. No additional parking is required for the JADU.

2. The project is conditioned to require the recordation of a deed restriction that will prohibit use of the JADU for short term rentals and will also prohibit the sale of the JADU separate from the principal dwelling. The project is also conditioned to require the owner of the Property to reside in either the primary dwelling or in the JADU. Owner occupancy is not required if the owner is another governmental agency, land trust or housing organization within the meaning of Government Code 65852.22
3. 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 is consistent with the existing neighborhood pattern of development.
4. A Coastal Hazards Report and Sea Level Rise Analysis including a Bulkhead Conditions Report was prepared by PMA Consulting, Inc. dated July 7, 2022, for the project. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988 (NAVD 88) and may exceed the current top of bulkhead elevation of 6.23 feet (NAVD 88) during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.05-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.75 feet NAVD 88 (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update).
5. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to raise the bulkhead to an elevation of 10.9 feet (NAVD 88). PMA Consulting, Inc. has confirmed the bulkhead can be raised up to 14.4 feet NAVD88 if needed without further bayward encroachment.
6. Once the existing seawall/bulkhead is reinforced/raised per the report's recommendations, flooding, wave run-up, and erosion will not significantly impact this property over the proposed 75-year economic life of the development. As conditioned, a waterproofing curb or other waterproof material is required and proposed be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.9 feet (NAVD 88). Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure. The report concludes that the proposed project will be safe from flooding hazards for the next 75 years with the repaired/reinforced and raised bulkhead and a flood protection or waterproofing around the structure. Therefore, the project has been conditioned to repair, reinforce, raise the bulkhead and include flood protection around the structure up to 10.9 feet (NAVD 88).

7. The finished floor elevation of the proposed single-family residence is 9.0 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed flood protection around the single-family residence at 10.9 feet (NAVD 88) for the anticipated 75-year life of the structure.
8. 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.
9. The property is located adjacent to coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. 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.
10. Pursuant to Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQMP has been prepared for the project by Aaron Albertson, September 21, 2022. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
11. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

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-2 lot with a new single-family residence and attached junior accessory dwelling unit. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical and lateral access to the bay is available approximately 90 feet to the south at the terminus of 34th Street where there is a small grass area adjacent to the bay. There is also vertical and lateral access to the bay 90 feet to the north at the terminus of 35th Street where there is a small sandy beach adjacent to the bay. The project does not include any features that would obstruct access along these routes.
3. The project site is not adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is on 38th Street on Newport Island approximately 800 feet northwest and the nearest coastal view road is Newport Boulevard north of Via Lido, approximately 600 feet northeast. Neither are visible from the site. As currently developed, the existing property and other residences along Finley Avenue are not located within the view shed of the park. The residences along Finley Avenue are within the viewshed of Rivo Alto (bay) and slightly from the Coastal View Road portion of Newport Boulevard. However, the proposed single-family residence with a junior accessory dwelling unit complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
4. The front of the residence, which is visible from the bay, provides additional setbacks for the second floor and third floor areas with open decks, providing modulation of volume. The design includes modulation of volume throughout the structure and low front site walls that prevent the appearance of the site being walled off from the bay. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.

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 (PA2022-0159), 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. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 (Appeal to the Coastal Commission) of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF NOVEMBER, 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. *Prior to final of building permits, the existing seawall shall be reinforced and capped to 10.90 feet (NAVD 88) and capable to be raised up to 14.4 feet (NAVD 88), in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities and the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis prepared by PMA Consulting dated July 7, 2022.*
3. *Prior to issuance of building permits, a waterproofing curb or similar waterproofing design feature shall be constructed around the proposed residence as an adaptive flood protection device up to a minimum of 10.9 feet (NAVD88). Flood shields (sandbags and other methods) can be deployed across the openings to protect and prevent flooding to the structure.*
4. *Prior to final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
5. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.*
6. *Prior to the issuance of a building permit, the Junior Accessory Dwelling Unit (JADU) shall require a deed restriction that prohibits the sale of the JADU separately and prohibits rental or leasing of the ADU for 30 days or less. The deed restriction will also require the owner of the Property to reside in either the primary dwelling or in the JADU. Owner occupancy is not required if the owner is another governmental agency, land trust or housing organization within the meaning of Government Code 65852.22.*

7. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission). Prior to the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
8. 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.
9. This Coastal Development Permit does not authorize any development seaward of the private property.
10. 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.
11. 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.
12. 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.

13. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
14. 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.
15. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
17. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
18. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
19. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.*
20. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.*
21. *Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
22. *Prior to issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.*
23. *Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the*

approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.

24. *Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.*
25. 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.
26. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
27. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

28. 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.
29. 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.
30. This Coastal Development Permit (PA2022-0159) 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.

31. 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 **Mickool Residence including, but not limited to, Coastal Development Permit (PA2022-0159)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2022-071

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND TO CONSTRUCT A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 550 SOUTH BAY FRONT (PA2022-0196).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, Architect, on behalf of Linda and Larry Rodman, with respect to the property located at 550 South Bay Front, requesting approval of a coastal development permit.
2. The property is legally described as Lot 7 in Block 15 of the Re-subdivision of Section One of Balboa Island.
3. The project will allow the demolition of an existing single-family residence and construction of a new three (3)-story, 2,355-square-foot, single-family residence and attached 400-square-foot, two (2)-car garage. The project includes additional appurtenances such as site walls, fences, patios, drainage devices, and landscaping. The design complies with all applicable development standards, including height, setbacks, and floor area limit; no deviations are requested.
4. The subject property is located within the R-BI (Two-Unit Residential, Balboa Island) Zoning District and the General Plan Land Use Element category is RT (Two-Unit Residential).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two Unit Residential, Detached (30.0 - 39.9 DU/AC)) and the Coastal Zoning District is R-BI (Two-Unit Residential, Balboa Island).
6. A public hearing was held online on November 10, 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 categorically exempt pursuant to Title 14 of the California Code of Regulations, Division 6 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act ("CEQA") Section 15303 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 and construction of limited numbers of new, small facilities or structures including one (1) single-family residence in a residential zone. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 2,355-square-foot, single-family residence with an attached 400-square-foot garage in the R-BI Zoning District.
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(F) (Coastal Development Permits – Findings and Decision) of the Newport Beach Municipal Code (NBMC), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The total proposed floor area, including the residence and enclosed parking, is 2,755 square feet, which complies with the maximum allowable floor area limit of 2,755 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are nine (9)-feet along the front property line abutting Bay Shore Drive, five (5)-feet along the rear property line, and three (3)-feet along each side property line.
 - c. The highest guardrail is no more than 24-feet and the highest roof ridge is no more than 29-feet, measured from the established grade level of 9.0-feet based on the North American Vertical Datum of 1988 (“NAVD88”), which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two (2) vehicles, which complies with the minimum 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 residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development consistent with applicable development standards.
3. A Coastal Hazards Report and Sea Level Rise Analysis, dated August 17, 2022, was prepared for the project by PMA Consulting, Inc. The project site is protected by a public boardwalk fronting the site along South Bay Front and an existing City-owned bulkhead that will remain in place. The report states that the highest high tide elevation is currently 7.7 feet (NAVD88). Using the low-risk aversion projected sea level rise of a 3.05-foot increase over the 75-year design life of the structure (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update), the report concludes that the estimated sea level rise should result in a bay water level of 10.75 feet (NAVD88). The report evaluates the current height of the City-owned bulkhead (approximately 8.6 feet NAVD88) and recommends that the bulkhead be raised in the future. Because the bulkhead is not privately owned and cannot be raised by the homeowner, the report recommends water proofing techniques for the proposed structure. By utilizing a combination of flashing and waterproofing for up to 23 inches above top of slab (10.92 feet NAVD88) and sandbags at openings, the building should be protected from flooding until year of 2097. The project has been conditioned to require the minimum slab height recommended by the report and waterproofing flashing up to 10.92 feet NAVD88.
4. The finished floor elevation of the first floor of the proposed structure is 9.00-feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard for new structures.
5. The property owner will 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) (Waterfront Development, Development Standards). The Acknowledgement of Coastal Hazards is included as a condition of approval that will need to be recorded prior to the issuance of building permits.
6. Pursuant to Newport Beach Municipal Code (NBMC) Section 21.30.030(C)(3)(i)(iv) - (Natural Landform and Shoreline Protection), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The Waiver of Future Protection is included as a condition of approval that will need to be recorded prior to final building inspection.
7. 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.

8. The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the NBMC, a Construction Pollution Prevention Plan (CPPP) is required 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. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
9. Pursuant to Section 21.35.050 (Water Quality and Hydrology Plan) of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary 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. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
10. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.

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 subject property is located on a waterfront lot that abuts the Balboa Island Loop. The Balboa Island Loop grants users with bay views and the opportunity to travel the outer perimeter of Balboa Island. Lateral access to the bay is provided by the loop and will continue to be provided by the loop. Vertical access to the Balboa Island Loop is provided by Collins Avenue, approximately 60-feet east of the project site.
2. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to use and/or view the coast and nearby recreational facilities. The proposed residential development neither provides nor inhibits public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence with a new single-family residence. The project is designed and sited so as not to block or impede existing public access opportunities and development will occur within the confines of private property. 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.

3. The nearest designated coastal viewpoint, as designated in the Coastal Land Use Plan, is over one-half mile east of the project site at the Park Avenue bridge that crosses the Grand Canal. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing 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 to public views.

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

PASSED, APPROVED, AND ADOPTED THIS 10TH DAY OF NOVEMBER, 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. *Prior to issuance of building permits, the project plans shall be updated to reflect that a waterproofing curb or similar design feature shall be constructed for up to 23-inches above top of slab as an adaptive flood protection device up to a minimum of 10.9-feet (NAVD88). Flood shields (sandbags and other barriers) can be deployed across the openings to protect prevent flooding to the structure.*
3. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
4. The Coastal Development Permit (PA2022-0196) shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code (NBMC), unless an extension is otherwise granted.
5. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development. This letter shall be scanned into the plan set prior to building permit issuance.
6. Prior to 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.
7. 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.

8. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands or public beaches.
9. 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.
10. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
11. 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.
12. 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.
13. 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.
14. 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.

15. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
16. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
17. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
18. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
19. 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.
20. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays or holidays.
21. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

22. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.

23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
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 **Rodman Residence including, but not limited to, Coastal Development Permit (PA2022-196)**. 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 City's costs, attorney's fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works Department

29. Proposed encroachments within the Bay Front South right-of-way shall be consistent with City Council Policy L-6. An encroachment permit and encroachment agreement are required for the proposed encroachments.

Building Division

30. The building and site development shall comply with the Special Flood Hazard Area Zone AO1 requirements. The lowest habitable minimum elevation shall be at or above the required design flood elevation (DFE).

Fire Department

31. Fire sprinklers are required.
32. A three-foot wide fire department accessway from the street to the alley is required.