



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 25, 2022.

ZONING ADMINISTRATOR ACTIONS NOVEMBER 23, 2022

- Item 1: LA21G, LLC Residential Condominiums Tentative Parcel Map (PA2022-0220)
Site Address: 708 and 708 ½ Larkspur Avenue
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| Action: Approved by Resolution No. ZA2022-072 | Council District | 6 |
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- Item 2: 424 Orchid LLC Residential Condominiums Tentative Parcel Map (PA2022-0226)
Site Address: 424 and 424 ½ Orchid Avenue
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| Action: Approved by Resolution No. ZA2022-073 | Council District | 6 |
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- Item 3: Clearwater Temporary Sales Trailer Limited Term Permit (PA2022-0210)
Site Address: 2424 Bristol Street
- | | | |
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| Action: Approved by Resolution No. ZA2022-074 | Council District | 3 |
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- Item 4: Canada Residence Coastal Development Permit (PA2022-0194)
Site Address: 117 G Street
- | | | |
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| Action: Approved by Resolution No. ZA2022-075 | Council District | 1 |
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- Item 5: Lugano Prive, LLC Minor Use Permit (PA2022-0157)
Site Address: 545 Newport Center Drive
- | | | |
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| Action: Approved by Resolution No. ZA2022-076 | Council District | 5 |
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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. ZA2022-072

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 708 and 708 ½ LARKSPUR AVENUE (PA2022-0220).

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 708 and 708 ½ Larkspur Avenue, legally described as Lot 10, Block 738, 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 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 23, 2022, online via Zoom. A notice of the 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 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 subdivision 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 Findings:

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 and a new duplex is currently under review. 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 Findings:

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 Larkspur Avenue and in the alley at 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 Findings:

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 Larkspur Avenue frontage and alley, as needed. New sod and groundcovers will be planted along Larkspur Avenue and the existing street tree will be protected in place. The utilities will be undergrounded, consistent with Title 19 (Subdivisions) of the Newport Beach Municipal Code (NBMC).
2. The tentative parcel map is for two-unit 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 two-unit condominium will replace an existing duplex. 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 (PA2022-0220), 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 23RD DAY OF NOVEMBER, 2022.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. After the recordation of the Parcel Map and prior to the building permit final, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this description change permit is final.
2. Prior to the final inspection of the building permit for new construction, the parcel map shall be recorded.
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 the 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 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 Residential Condominiums including, but not limited to, Tentative Parcel Map (PA2022-0220)**. 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, Sub-article 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, Sub-article 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 the 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 Larkspur 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, raised planter, and walls within the Larkspur Avenue right-of-way.
15. Prior to the recordation of the parcel map, the parkway along Larkspur Avenue shall be landscaped with new sod or low groundcovers as approved by the City
16. The existing street tree within the Larkspur Avenue right-of-way shall be protected in place.

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. Prior to the recordation of the parcel map, 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 Larkspur Avenue to the alley for Fire Department access.

Building Division

21. Separate utility services are required for each unit.

RESOLUTION NO. ZA2022-073

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 424 AND 424 ½ ORCHID AVENUE (PA2022-0226)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 424 Orchid LLC with respect to property located at 424 and 424 ½ Orchid Avenue, and legally described as Lot 18 and the Southwesterly half of Lot 20, Block 442, 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 duplex was previously demolished, and a new duplex is currently under construction that will be built to condominium standards. The application is to create two (2) new condominium units on the new parcel being created. 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 located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two Unit Residential (RT).
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 23, 2022, online via Zoom. A notice of the 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 project meets all identified criteria therefore it 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 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 RT General Plan land use designation and R-2 Zoning District apply to a range of one (1) and two (2)-family residential dwelling units such as duplexes and townhomes. The project site was previously developed with a duplex and has been cleared of existing improvements. A new duplex is currently under construction and will be built to condominium standards. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use category.
2. The subject property is not located within a specific plan area.
3. The project is conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Orchid Avenue frontage and alley as needed, as well as undergrounding of utilities, consistent with Title 19 (Subdivisions) of the 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 duplex.
2. The subject property is accessible both from Orchid Avenue and the alley in the rear.
3. The site is adequately served by existing utilities, as the site was previously developed as a duplex.

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 or through 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 by 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 (RWCQB) 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 the Tentative Parcel Map (PA2022-0226) 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 Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 23RD DAY OF NOVEMBER 2022.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. After the recordation of the Parcel Map and prior to the building permit final, the Applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium". The development will not be condominiums until this description change permit is final.
3. Prior to the final inspection of the building permit for new construction, the parcel map shall be recorded.
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. 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 leasing agent.
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 20 Planning and Zoning of the Newport Beach Municipal Code.
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 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 **424 Orchid LLC Residential Condominiums including, but not limited to this Tentative Parcel Map (PA2022-0226)**. 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 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 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

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, NAVD83). 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 said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivisions Manual, Sub-article 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, Sub-article 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. Reconstruct the existing broken and/or otherwise damaged concrete curb, gutter, and sidewalk along the Orchid Avenue frontage per City Standard and all damaged alley panels.
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. All existing overhead utilities shall be undergrounded.
15. No above-ground improvements are permitted within the 5-foot alley setback area.
16. Remove existing private improvements within the Orchid Avenue right of way. Install new sod or low groundcovers of the type approved by the City throughout the Orchid Avenue parkway fronting the development site.
17. Install a new 36-inch box street tree with the Orchid Avenue public right-of-way.
18. All improvements shall comply with the City's sight distance requirement. See City Standard 110.
19. 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

20. Prior to the recordation of the parcel map, a separate fire sprinkler system shall be provided for each unit.
21. A three (3)-foot wide walkway shall be provided on at least one side of the lot(s) from Orchid Avenue to the alley for Fire Department access.

Building Division

22. Separate utility services are required for each unit.

RESOLUTION NO. ZA2022-074

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LIMITED-TERM PERMIT FOR A TEMPORARY TRAILER LOCATED AT 2424 BRISTOL STREET TO BE USED AS A LEASING OFFICE DURING THE CONSTRUCTION OF THE CLEARWATER SENIOR LIVING PROJECT (PA2022-0210).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Douglas Pancake Architects (“Applicant”), with respect to the property located at 2424 Bristol Street, legally described as Lots 8 through 20 of Tract 1499 (“Property”), requesting approval of a Limited Term Permit (More than 90 days).
2. The applicant proposes to place one temporary trailer in the parking lot of an existing office building at 2424 Bristol Street for a one-year term. The temporary trailer will be used as a sales office for pre-leasing activities for the Clearwater Senior Living project, which is currently under construction in the adjacent lot at 101 Bayview Place. The temporary trailer will be located in the southeastern portion of the parking lot directly adjacent to 101 Bayview Place.
3. The subject property is designated General Commercial Office (CO-G) by the General Plan Land Use Element and is located within the Professional and Administrative Office District of the Santa Ana Heights Specific Plan (SP-7) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on November 23, 2022, online via Zoom. A notice of the 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 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. Class 11 exempts the placement of seasonal or temporary use items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The proposed temporary office trailer will be placed within an existing parking lot for a temporary period and will be ancillary to the proposed development being constructed in the adjacent property.

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

SECTION 3. REQUIRED FINDINGS.

Limited Term Permit

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

Finding:

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

Facts in Support of Finding:

1. The limited-term permit will allow one temporary office trailer to serve as an office for promotional and pre-leasing activities during the construction of the adjacent senior living project at 101 Bayview Place.
2. The Property is currently improved with a 43,549-square-foot professional office building. The Zoning Code requires professional office users to provide one parking space per every 250 square feet of net floor area. Based on this requirement, the office use requires 175 parking spaces. The existing parking lot provides 189 parking spaces, which is a 14-space surplus. The temporary trailer would temporarily displace nine (9) parking spaces in the existing parking lot, which would leave 180 parking spaces (5-space surplus) that are accessible and available for use throughout the duration of the LTP. The surplus parking spaces are expected to be adequate for the employees and prospective residents. The temporary trailer is not expected to be detrimental to the parking for the office use at 2424 Bristol Street.
3. The temporary trailer is proposed to operate from 9 a.m. to 5 p.m., daily.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 2.09 acres in size. Based on the site plan, there is adequate area to accommodate the proposed modular buildings and existing uses without impacting vehicle circulation. The temporary trailer will be in the southeastern portion of the parking lot and has been conditioned to ensure that it will not negatively impact on-site circulation.
2. Fact 2 in support of Finding A is hereby incorporated as a reference.
3. The Property is bounded by Bristol Street to the north and east, Zenith Avenue to the south, residences to the west and south, and the Clearwater Senior Living project site to the southeast. The temporary trailer will not negatively affect any of the surrounding uses.
3. The temporary office trailer will be placed on private property. The trailer will be visible to motorists traveling on Bristol Street. However, the trailer will be placed in an isolated portion of the parking lot that is partially screened by an existing trash enclosure and landscaping.
4. There is a residence at 2491 Zenith Avenue, which is adjacent to the proposed trailer location to the south. The trailer is proposed to be set back a minimum of 10 feet from the residential property line. Additionally, the access ramp and front entrance to the trailer are facing the opposite direction from the residence. The hours of operation are conditioned to be limited from 9 a.m. to 5 p.m., daily and must comply with City's noise and lighting standards. Therefore, the trailer will not negatively affect the adjacent residence.

Finding:

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

Facts in Support of Finding:

1. The Property has direct driveway approaches taken from Bristol Street and Spruce Avenue. The temporary trailer's location in the southeastern corner of the parking lot will not impede access to the existing office building. There are no traffic issues anticipated.
2. The temporary trailer will have approximately two employees at any given time. The purpose of the trailer is for pre-leasing activities with potential residents of the future Clearwater Senior Living project at 101 Bayview Place. The temporary trailer is not expected to generate high amounts of traffic.

Finding:

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

Facts in Support of Finding:

1. The temporary trailer is not expected to create a significant parking demand since it is for pre-leasing activities for the future project in the adjacent lot.
2. Fact 2 in support of Finding A is hereby incorporated as a reference.
3. Fact 1 in support of Finding B is hereby incorporated as a reference.
4. Fact 2 in support of Finding C is hereby incorporated as a reference.

Finding:

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

Facts in Support of Finding:

1. The temporary trailer is conditioned to comply with all applicable provisions of the General Plan, Municipal Code, and other City regulations.
2. The site is located in the Santa Ana Heights Specific Plan (SP-7) and is categorized as a Professional and Administrative Office land use. SP-7 permits commercial coaches as a temporary use.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves a Limited Term Permit (PA2022-0210), subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 23RD DAY OF NOVEMBER, 2022.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. This Limited Term Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
5. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require an amendment to the Limited Term Permit or the processing of a new Limited Term Permit.
6. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans before issuance of the building permits.
7. *This Limited Term Permit shall expire twelve (12) months from the issued date of building occupancy unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days before the expiration date of this permit.*
8. *The hours of operation for the temporary trailer shall be limited from 9 a.m. to 5 p.m., daily.*
9. *At the expiration of this limited-term permit, the temporary trailer and all associated accessory structures (ie. K-rail and access ramp) shall be removed and the parking lot shall be returned to previous conditions.*
10. 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.

11. *Accessible parking and path of travel shall be provided and maintained.*
12. *The southeastern portion of the parking lot where the trailer shall be closed for parking and shall have a K-rail placed across the drive aisle to prohibit vehicular access.*
13. *Before to the issuance of a Building Permit, the Applicant shall provide State of California approval for the modular building.*
14. *All temporary structures are required to be inspected by a Building Division Inspector. The applicant shall comply with all lawful orders and requirements of the Building Inspector.*
15. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
16. Lighting shall comply with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. If in the opinion of the Community Development Director the existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas, the dimming of light sources or other remediation may be ordered. An electrical permit shall be secured for lighting as required by the Building Division.
17. All electrical shall be in good working order and shall be protected from pedestrian traffic. An electrical permit shall be obtained, and the site inspected by the Building Division.
18. Should the temporary trailer become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace of the neighboring properties and their inhabitants, this permit may be revoked.
19. The approval of the requested limited-term permit is contingent upon compliance with applicable provisions of the Municipal Code and the successful granting of all required permits from any other department or governing agency.
20. Before to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified 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

22. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or leasing agent.
23. 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 Sundays or Holidays.
24. No outside paging system shall be utilized in conjunction with this establishment.
25. All trash shall be stored within the building or within dumpsters stored in the on-site trash enclosures or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies.
26. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
27. The exterior of the trailer shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
28. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
29. 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 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 **Clearwater Temporary Sales Trailer including, but not limited to, Limited Term Permit (PA2022-0210)**. 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 the 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 outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2022-075

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 CONSTRUCT A NEW THREE (3)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 117 G STREET (PA2022-0194).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bill Guidero, Architect, with respect to a property located at 117 G Street, requesting approval of a coastal development permit.
2. The lot at 117 G Street is legally described as Lot 4, Block A in Tract 518.
3. The applicant requests a Coastal Development Permit (CDP) to allow the demolition of an existing single-family residence and the construction of a new three (3)-story, 2,924-square-foot, single-unit residence including an attached 436-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.
4. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) (10.0- 19.9 DU/AC), and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
6. A public hearing was held on November 23, 2022, online via Zoom. A notice of the time, place, and purpose of the hearing was given by 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 of one

(1)-single-family residence and the construction of a new 2,924-square-foot, single-family residence including an attached 436-square-foot, two-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(F) (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 3,199 square feet and the proposed floor area is 2,924 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting G Street, 3 feet along each side property line and 10 feet along the rear property line.
 - c. The highest guardrail is less than 24 feet from established grade (9.80 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.
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.
3. The project site is separated from the shoreline of the Pacific Ocean (the nearest body of water) by a wide sandy beach and row of residences. The project site and other properties in the area are not protected by a bulkhead, however, the project site is

approximately 450 feet from the shoreline. The finished floor elevation of the first floor of the proposed structure is 10.20 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the 10.20-foot NAVD88 finish floor elevation and waterproofing up to 10.90-foot NAVD88 around the single-family residence will help to ensure the project is reasonably safe from coastal hazards including sea level rise for the economic life of the structure.

4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The property is located within 450 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 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.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

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

Facts in Support of Finding:

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

2. Vertical access to the beach is available at the terminus of G Street and East Ocean Front public beach approximately 185 feet south of the site. Lateral access is available on the beach to the south of the site and also along the public boardwalk approximately 400 feet west of the site. The project does not include any features that would obstruct access along these routes.
3. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is over 2,000 feet away at Peninsula Park and is not visible from the site. The East Ocean Front Boardwalk ends approximately 400 feet west of the site and the site is not visible from the Boardwalk. The proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.
4. The front of the proposed residence and rear of the residence 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, whereas the existing building encroaches into the rear setback. There are open decks on the second floor in the front and rear of the property that provide modulation. The low walls in the front yard and open decks prevent the appearance of the site being walled off from the street. 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 (PA2022-0194), 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 23RD DAY OF NOVEMBER, 2022.



Benjamin M. Zieba, AICP, 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 the final of building permits, a waterproofing curb or similar 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.*
3. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
4. 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.
5. 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.
6. 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.

7. 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.
8. 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.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
12. 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.
13. *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.*
14. *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.*
15. *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.*
16. *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.*
17. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall

be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

- 18. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
- 19. 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

- 20. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
- 21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
- 22. This Coastal Development Permit (PA2022-0194) shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
- 23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney’s fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of **Canada Residence including, but not limited to, Coastal Development Permit (PA2022-0194)**. 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. ZA2022-076

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MINOR USE PERMIT TO ALLOW A TYPE 57 (SPECIAL ON-SALE GENERAL) AND A TYPE 20 (OFF-SALE BEER AND WINE) ALCOHOLIC BEVERAGE CONTROL LICENSE AT A NEW PRIVATE MEMBERSHIP DINING ESTABLISHMENT WITH LIVE ENTERTAINMENT AND NO LATE HOURS LOCATED AT 545 NEWPORT CENTER DRIVE (PA2022-0157)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Lugano Prive, LLC, concerning property located at 545 Newport Center Drive and legally described as Parcel 1, Block 221, Page 30 requesting approval of a Minor Use Permit.
2. The applicant requests a minor use permit for Lugano Prive, a private membership dining establishment, operating with a Type 57 (Special On Sale General) and an accessory Type 20 (Off-Sale Beer and Wine) Alcoholic Beverage Control (ABC) license with no late hours (after 11:00 p.m.). Accessory off-sale alcohol sales are proposed in the form of to-go gift packages. The tenant improvement for the private membership dining establishment is under construction at the site formerly occupied by Canaletto Ristorante. Live entertainment is proposed in conjunction with promotional and special events, up to five (5) times a month consisting of small jazz bands, orchestras, speakers, and other upscale musical performances. Live entertainment may include amplified sound and no late hours of operation (after 11:00 p.m.) are proposed. Since alcoholic beverages are offered with entertainment, approval of an operator's license by the Chief of Police will be required.
3. The subject property is designated Regional Commercial (CR) by the General Plan Land Use Element and is located within the North Newport Center Planned Community (PC56).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on November 23, 2022, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the Newport Beach Municipal Code. Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the

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

2. The Class 3 exemption includes a store, motel, office, restaurant, or similar structure not involving the use of significant amounts of hazardous substances, not exceeding 2,500 square feet in floor area or 10,000 square feet in floor area in urbanized areas zoned for such use.
3. The proposed scope of work is a maximum 7,585-square-foot suite and a 754-square-foot outdoor dining area at a new private membership dining establishment in an existing suite formerly occupied by a restaurant and qualifies under the parameters of the Class 3 exemption. Further, the change in use, permitted under the Class 3 exemption, is minor in nature. The only significant changes in operational characteristics are restricted patrons to members and their guests only and the addition of private events and live entertainment. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions.
4. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Fact in Support of Finding:

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

Finding

- B. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).*

Fact in Support of Finding

1. In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:

i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*

Reporting District	Part One Crimes (Serious offenses)	Part Two Crimes (All other offenses)	Part One Crimes Rate (per 100,000 people) ¹
RD No. 39	135	208	4,835
RD No. 43	19	21	1,152
RD No. 47	17	24	719
RD No. 38	29	22	1,032
Newport Beach	1,789	3,222	2,064

a. The RD 39 crime count for 2021 is 261, which is 158 percent over the citywide average of 101 crimes per RD. The higher crime rate is largely attributable to the concentration of commercial land uses and the high ratio of nonresidential to residential uses. For example, the RD to the southeast, RD 44, contains the entire commercial corridor along East Coast Highway within Corona del Mar. RD 44 is smaller in land area than RD 39 yet it maintains a comparable number of crimes due to the similarly high ratio of nonresidential to residential uses. The remaining neighboring RDs, 43 and 47, are primarily residential with few commercial uses. As a result, they have a significantly lower number of crimes. Their crime average is 64 percent and 62 percent below the citywide average, respectively.

b. The NBPD has reviewed the project and has no objection to the proposed Types 57 (Special On-Sale General) and Type 20 (Off-Sale General) ABC licenses, subject to appropriate conditions of approval which have been incorporated into Exhibit “A” of this Resolution. These conditions include provisions such as the requirement that all owners, managers, and employees selling alcoholic beverages shall undergo and complete a certified training program in responsible methods and skills for selling alcoholic beverages.

ii. *The number of alcohol-related calls for service, crimes, or arrests in the reporting district and adjacent reporting districts.*

Reporting District	DUI/Drunk Arrests	Total Arrests	Calls for Service ²
RD No. 39	47	199	7,095
RD No. 43	5	18	913
RD No. 47	6	33	1,023
RD No. 38	7	27	903
Newport Beach	796	2,959	97,176

¹ Crimes rate data to be provided by the Police Department prior to the Planning Commission hearing. Police has reviewed the crimes and data and confirmed their recommendation as provided in the Police Department memorandum.

² Calls for service data to be provided by the Police Department prior to the Planning Commission hearing. Police has reviewed the alcohol-related data and confirmed their recommendation as provided in the Police Department memorandum.

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- a. Alcohol-related calls for service, crimes, or arrests in RD 39 make up 23 percent of arrests in this reporting district. This is higher than neighboring RD 43, 47, and 38 (27 percent, 18 percent, and 26 percent, respectively). Based on the operational characteristics of the proposed use, the NBPD has reviewed the proposal and has no objection.
 - b. Compared to the adjacent RDs, RD 39 had a higher percentage of alcohol-related crimes in 2021. The higher number of crimes is to be expected given the crime figure includes driving under the influence, public intoxication, and liquor law violations. These are crimes associated with commercial establishments. RD 43 and 47, which are primarily residential, are unlikely to have similar crime incidents.
 - iii. *The proximity of the establishment to residential zoning districts, daycare centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
 - a. The private membership dining establishment is located on the first floor of the northeastern section of the shopping center. The establishment features an interior dining and entertainment space and an accessory outdoor patio. Fashion Island does not abut any sensitive land uses and is separated from other structures and uses by parking lots, a busy roadway, and other commercial uses. Residential uses are permitted in the northern sections of PC56; however, the private membership dining establishment is separated from the nearest residential use by over 500 feet. There are no daycare centers, hospitals, parks, places of worship, or schools within the mall. While some minors are expected to be present at the private membership dining establishment, the business is intended to attract a variety of users and not specifically minors.
 - b. Eating and drinking establishments, which operate similarly to the proposed private membership dining establishment, with incidental alcohol service are common within the mall. The upgraded ABC license is not anticipated to alter the operational characteristics of the proposed private membership dining establishment such that it becomes detrimental to the area.
 - c. Condition of Approval No. 35 prohibits the private membership dining establishment from operating as a bar or tavern which should help ensure compatibility with the surrounding businesses. Late hours are not proposed as part of this project nor are they allowed by this use permit.
 - iv. *The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*

Census Tract	Active On-Sale ABC License	Per Capita
Tract 630.08	64	1 per 38 residents
Tract 627.01	26	1 per 103 residents
Tract 626.42	5	1 per 570 residents
Tract 630.07	17	1 per 394 residents
County-wide	3,876	1 per 822 residents

- a. There are several restaurants with accessory alcohol service, which operate similarly to private membership dining establishments, within the mall. These include Fleming’s Steak House, True Food Kitchen, Back Bay Tavern at Whole Foods Market, Cheesecake Factory, and P.F. Chang’s. Generally, these restaurants operate with a Type 41 (On-Sale Beer and Wine) or a Type 47 (On-Sale General) ABC license. There is no evidence suggesting that these uses have been detrimental to the surrounding vicinity. Additionally, there is no evidence to suggest that the approval of this upgraded alcohol sales license would create any new objectionable conditions. A Type 57 ABC license is like a Type 47 (On-Sale General) license in that it allows for the on-site consumption of beer, wine, and spirits. A Type 57 license is required as Lugano Prive does not qualify for a Type 47 (On-Sale General) or Type 51 (Club) license as the establishment will be open to members and their guests only and invitees of the private events (not the general public), and as Lugano Prive will have private events and may facilitate the off-site consumption of beer or wine by members and their guests, respectively. A Type 20 (Off-Sale Beer and Wine) license is required as Lugano Prive will be selling wine in conjunction with to-go boxes of food as an accessory use to the private membership dining establishment.
- b. Whole Foods Market, to the south of the subject suite, operates with a Type 21 (Off-Sale General) ABC license, among others. This license type is similar, and more intense than the Type 20 ABC license proposed by the private membership dining establishment.
- v. *Whether or not the proposed amendment will resolve any current objectionable conditions.*
 - a. No objectionable conditions are presently occurring at the Property. While police dispatched officers to the prior location (Canaletto) 12 times in 2021, arrests were reported for the subject suite.
 - b. The proposed private membership dining establishment will diversify its offerings as a convenience to its patrons. The project has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the NBMC are maintained and that a healthy environment for residents and businesses is preserved.

Minor Use Permit

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

Finding:

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

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the project site as Regional Commercial (CR), which is intended to provide retail, entertainment, service, and supporting uses that serve local and regional residents. The proposed private membership dining establishment with alcoholic beverage services and live entertainment is a use that serves local and regional residents and is consistent with land uses in the CR land use designation.
2. Land Use Element Policy LU 6.14.1 Fashion Island ["CR" designation] is intended to: *Provide the opportunity for an additional anchor tenant, other retail, and/or entertainment and supporting uses that complement, are integrated with, and enhance the economic vitality of existing development. A maximum of 213,257 square feet of retail development capacity specified by Table LU2 (Anomaly Locations) may be reallocated for other permitted uses in Newport Center, provided that the peak hour vehicle trips generated do not exceed those attributable to the underlying retail entitlement.* Lugano Prive is intended to serve defining tenants for the Fashion Island Mall and the surrounding area. The applicant requests the addition of alcohol service to a private membership dining establishment, which will complement the fine food served daily and during promotional and special events. Due to this, the project is not expected to result in increased traffic.
3. The subject property is not a part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The project is located in the Fashion Island Sub-Area of the PC-56 (North Newport Center Planned Community) Zoning District Fashion Island, which is intended to be a regional retail and entertainment center and a day/evening destination with a wide variety of uses that will serve visitors, residents, and employees of the area. The private membership dining establishment with alcoholic beverage sales and live entertainment is a commercial use that serves visitors, residents, and employees in the area and, therefore, is consistent

with the purposes of the North Newport Center Planned Community District for the Fashion Island Sub-Area.

2. Eating and Drinking Establishments are permitted uses within the Fashion Island Sub-Area of the North Newport Center Planned Community Zoning District. Pursuant to the Planned Community Text, live entertainment falls within the definition of "Commercial Recreation and Entertainment," which is a permitted use within the Fashion Island sub-area. Pursuant to the Planned Community Text, the on-premises sale of alcohol in conjunction with an eating and drinking establishment requires a minor use permit.
3. The proposed private membership dining establishment is within the limits of the cumulative floor area allocated for Fashion Island.

Finding:

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

Facts in Support of Finding:

1. The Fashion Island Sub-Area permits a range of retail, dining, and commercial entertainment uses within the PC-56 (North Newport Center Planned Community) Zoning District. While the proposed establishment provides a component of dining services like a lounge, the use is compatible with surrounding permitted commercial uses in the vicinity and there are no sensitive land uses located nearby.
2. The proposed hours of operation are 10:00 a.m. to 7:00 p.m., daily, with an extended closing time up to 11:00 p.m. during private events.
3. Typically, there will be no more than 65 patrons and 10 staff on-site at a time; during private events, there will be no more than 100 attendees.
4. The private membership dining establishment proposes live entertainment up to five (5) times a month, the majority of which will occur during special and promotional events. Live entertainment may include amplified sound, and no late hours of operation (after 11:00 p.m.) are proposed. The live entertainment is proposed to consist of small jazz bands, orchestras, speakers, and other upscale musical performances. Condition of approval number No. 3 limits hours of operation for the private membership dining establishment to 10:00 a.m. through 11:00 p.m., daily.
5. Due to the inclusion of alcohol service with live entertainment, the approval of an Operator's License by the Newport Beach Police Department is required. A copy of the Fashion Island Security Plan will be provided as part of the operator license process for the proposed business. An operator license required under NBMC Chapter 5.25 may be subject to additional and/or more restrictive conditions to regulate and control potential nuisances associated with the operation of the private membership dining establishment.

The operator license will help ensure the compatibility of the proposed business with the surrounding uses in the vicinity.

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

Finding

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

Facts in Support of Finding

1. The Fashion Island shopping center provides adequate parking and circulation within the surface parking lots and parking structures on site, as the site is not completely built out, and is currently over-parked.
2. This site has been reviewed by the Fire Department to ensure adequate public and emergency vehicle access is provided. Utilities are provided with all applicable requirements.
3. The site has historically been developed and used as a restaurant location with alcohol service (Canaletto) and the existing suite is currently being reconfigured. The proposed private membership dining establishment will operate similarly to a restaurant, except that admittance into the business will be limited to members and their guests only, and, during promotional and special events, a select and exclusive attendee list. The tenant space is under renovation for an eating and drinking establishment.

Finding

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

Facts in Support of Finding

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

2. The private membership dining establishment with alcohol service and live entertainment will serve visitors and the surrounding business community. The proposed establishment will provide alcohol service as a convenience to members, philanthropic organizations, and general patrons of the adjacent Lugano Diamonds salon, which is a retail tenant open to the public and accepts walk-ins, within the surrounding area.
3. Fashion Island management has historically provided efficient on-site security and cooperates with the Newport Beach Police Department. The provision of an operator license will further enable the Police Department to regulate the operation of the proposed business.
4. The applicant is required to install a grease interceptor, obtain Health Department approval before opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under 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 a minor use permit (PA2022-0157), subject to the conditions outlined in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Use Permit No. UP2008-008 (PA2008-054), which upon vesting of the rights authorized by Minor Use Permit (PA2022-0157) shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 23RD DAY OF NOVEMBER 2022.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. This approval supersedes Use Permit No. UP2008-008 (PA2008-054).
2. 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.)
3. The hours of operation shall be limited to between 10:00 a.m. to 11:00 p.m., daily.
4. Live entertainment consisting of small jazz bands, orchestras, speakers, and other upscale musical performances shall be permitted at the subject property up to five (5) times a month, from 10:00 a.m. to 11:00 p.m., maximum. Amplified sound shall be permitted. There shall be no live entertainment allowed on the premises without first obtaining a Live Entertainment Permit from the City. Prior to the issuance of building permits for the change of occupancy, the applicant shall obtain a Live Entertainment Permit from the Revenue Division.
5. The interior net public area of the establishment shall be limited to 5,908 square feet for the interior area and 754 square feet for the outdoor patio.
6. The installation of roof coverings shall not have the effect of creating a permanent enclosure for the outdoor dining patio. The use of umbrellas for shade purposes shall be permitted. The use of any other type of overhead covering shall be subject to review and approval by the Community Development Director and may require an amendment to this permit.
7. The restaurant windows and doors shall remain closed while live entertainment is conducted within the establishment.
8. A Special Event Permit is required for any event or promotional activity outside the normal operating characteristics of this private membership dining establishment 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.
9. There shall be no dancing allowed on the premises. This shall not be misconstrued as prohibiting dancing as part of a live performance in conjunction with live entertainment up to five (5) times a month.
10. The restaurant and patio seats shall be configured in dining room settings. The dining tables and chairs are not permitted to be moved to create standing areas for food and beverage service to patrons.

11. The operator of the private membership dining establishment shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.
12. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets and shall be sound attenuated by Chapter 10.26 of the Municipal Code, Community Noise Control.
13. 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.
14. 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).
15. The operator of the food service use shall be responsible for the clean-up of all on-site and off-site trash, garbage, and litter generated by the use.
16. Storage outside of the building shall be prohibited, except the required trash container enclosure.
17. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
18. All proposed signs shall be in conformance with the provisions of the PC-56 (North Newport Center Planned Community), Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code, or an approved Comprehensive Sign Program for the project site.
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 permit.
20. The Zoning Administrator may add to or modify conditions of approval to this Minor Use Permit, upon a determination that the operation which is subject to this Minor Use Permit causes injury, or is detrimental to the health, safety, peace, morals, comfort, or general welfare of the community.
21. Any changes in operational characteristics, hours of operation, expansion in the area, or modification to the floor plan, shall require an amendment to this Minor Use Permit unless otherwise approved by the Planning Division.

22. Should the business, subject to the Minor Use Permit conditioned herein, be sold or otherwise come under different ownership or a change in operators, any future owners, operators, or tenants shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
23. This Minor Use Permit shall expire unless exercised within twenty-four months from the date of approval as specified in Section 20.91.50 of the Newport Beach Municipal Code.
24. 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 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 Lugano Prive, LLC including, but not limited to, Minor Use Permit (PA2022-0157). 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 the 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 outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

25. Before to the issuance of final building permits, automatic fire sprinklers, and a fire alarm system shall be required for the new establishment. The sprinkler and alarm systems shall be monitored by a UL-certified alarm service company.

Building Division

26. 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 shall be obtained, before the issuance of a final building permit.
27. A covered wash-out area (36 inches wide by 36 inches deep by 6 feet high) for refuse containers and kitchen equipment shall be provided and shall drain directly into the sewer system unless otherwise approved by the Community Development Director and Public Works Director in conjunction with the approval of an alternative drainage plan. The washout area shall be specifically shown on the construction drawings submitted for building permits.
28. The facility shall comply with the provisions of Chapter 14.30 of the Municipal Code for commercial kitchen grease disposal, as determined by the Building Division and the Utilities Department.

29. The private membership dining establishment shall provide the number of plumbing fixtures to satisfy the requirements of Chapter 4 of the California Building Code, 2010.
30. Prior to the issuance of building permits, an exit analysis shall be provided for the outdoor dining patio.
31. The site plan shall identify the parking, path of travel, entrance, restrooms, fixed seating, and bar seating to comply with accessibility requirements.
32. The facility shall be designed to meet exiting and fire protection requirements as specified by the California Building Code and shall be subject to review and approval by the Building Division.
33. The project shall comply with State Disabled Access requirements.
34. Public sanitation facilities shall be available to the public (patrons) during regular business hours of the operation unless otherwise approved by the Building Division.

Police Department

35. Alcohol service shall be limited to a Type 57 (Special On Sale General) and Type 20 (Off-Sale Beer and Wine) Alcoholic Beverage Control License.
36. The operator as well as any future operators of the private membership dining establishment shall obtain an Operator License under Chapter 5.25 of the Municipal Code to ensure the business is operated safely. The Operator License may be subject to additional and/or more restrictive conditions to regulate and control potential late-hour nuisances associated with the operation of the establishment.
37. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge, or nightclub as defined by the Newport Beach Municipal Code unless the Zoning Administrator first approves an amended minor use permit. This Minor Use Permit shall be terminated if the operation is no longer maintained as a “bona fide public eating place” as defined by the California Department of Alcoholic Beverage Control.
38. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.
39. Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
40. Strict adherence to maximum occupancy limits is required.
41. The applicant shall maintain a security recording system with 30-day retention and make those recordings available to police upon request.

42. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are visible to the exterior shall constitute a violation of this condition.
43. The applicant shall provide shopping center and individual suite security plans as part of their operator's license submittal package.
44. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within sixty (60) days of hire. This training must be updated every three (3) years regardless of certificate expiration date. The certified program must meet the standards of the certifying/licensing body designated by the State of California. The establishment shall comply with the requirements of this section within sixty (60) days of approval. Records of each owner's, manager's, and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
45. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.