



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 January 27, 2023.

ZONING ADMINISTRATOR ACTIONS JANUARY 26, 2023

- Item 1: Aeronutronic Ford Soil Vapor Remediation Limited Term Permit (PA2022-0180)
Site Address: 94 Hartford Drive
Action: Continued to March 2, 2023, Zoning Administrator Meeting Council District 4
- Item 2: LA21G, LLC Residential Condominiums Tentative Parcel Map and Coastal Development Permit (PA2022-0234)
Site Address: 603 Acacia Avenue
Action: Approved by Resolution No. ZA2023-001 Council District 6
- Item 3: Villas Terra d'Sole, LLC Residential Condominiums Tentative Parcel Map (PA2022-0215)
Site Address: 1511 and 1513 Cliff Drive
Action: Approved by Resolution No. ZA2023-002 Council District 2
- Item 4: Winkle Residence Coastal Development Permit (PA2022-121)
Site Address: 2130 Santiago Drive
Action: Approved by Resolution No. ZA2023-003 Council District 3
- Item 5: 925 Via Lido Soud, LLC Residence Lot Merger and Coastal Development Permit (PA2022-0204)
Site Address: 921 and 925 Via Lido Soud
Action: Approved by Resolution No. ZA2023-004 Council District 1
- Item 6: Jankiewicz Residence Coastal Development Permit (PA2022-0155)
Site Address: 316 and 316 ½ Grand Canal
Action: Approved by Resolution No. ZA2023-005 Council District 5

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2023-001

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT AND TENTATIVE PARCEL MAP FOR TWO (2)-UNIT RESIDENTIAL CONDOMINIUM PURPOSES LOCATED AT 603 ACACIA AVENUE (PA2022-0234)

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 603 Acacia Avenue and legally described as Lot 64 of Tract Map No. 682, requesting approval of a coastal development permit and tentative parcel map.
2. The applicant proposes a tentative parcel map and coastal development permit for a two (2)-unit condominium. A single-family residence 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 located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two-Unit Residential) – (20.0-29.9 DU/AC) and it is located within the R-2 (Two Unit Residential) Coastal Zone District.
5. A public hearing was held on January 26, 2023, 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 (2)-unit condominium subdivision and will conform to all development standards, and therefore, is eligible for the Class 15 Exemption.

SECTION 3. REQUIRED FINDINGS.

Tentative Parcel Map

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

Finding:

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

Facts in Support of Finding:

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

1. The lot is physically suitable for a duplex because it is relatively flat and rectangular. An existing single-family residence has been demolished and a new duplex is currently under review in plan check.
2. The subject property is accessible from the alley and is adequately served by all existing utilities.

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 habit 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.

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 Acacia Avenue frontage and alley, as needed. Existing private improvements within the Acacia Avenue right-of-way must be removed and new sod and groundcovers along with a new 36-inch box street tree in the Acacia Avenue public right-of-way. 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 (2)-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 property was previously developed for residential use and is located in a Zoning District that 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 two (2)-unit condominiums will replace an existing single-family residence. Therefore, the tentative parcel map for two (2)-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 located within the Coastal Zone. A coastal development permit is requested in conjunction with the proposed tentative parcel map application. The project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter Three (3) of the Coastal Act. The Facts in Support of Findings L and M for the Coastal Development Permit (below) are hereby incorporated by reference.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for a two (2)-unit residential condominium. A single-family residence has been demolished and a new duplex is under construction. The duplex conforms to all applicable development standards, including floor area limit, setbacks, height, and off-street parking. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
2. The property is located in an area known for the potential for seismic activity. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The Tentative Parcel Map is for a property that is approximately 1,500 feet from the water and is not near any natural landforms or environmentally sensitive areas.

Finding:

M. Conforms to 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 not located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a tentative parcel map for two (2)-unit condominium purposes. The project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The project site is approximately 1,500 feet from Corona del Mar State Beach where lateral and vertical coastal access are provided. Approval of the parcel map will not affect public recreation, access, or 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 Sections 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 coastal development permit and tentative parcel map (PA2022-0234) 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 the Resolution is adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 (Local Coastal Program [LCP] Implementation Plan) of the Newport Beach Municipal Code. The project site is not located within the appeal area of the coastal zone; therefore, final action by the City may not be appealed to the California Coastal Commission.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF JANUARY, 2023.



Benjamin M. Zieba, 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. 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.
3. 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.
4. Prior to the recordation of the parcel map, an In-Lieu Park Dedication Fee for one (1) additional residential unit shall be paid in accordance with the fee effective at the time of payment.
5. Prior to issuance of building permit, a Fair Share Fee for one (1) additional residential unit shall be paid in accordance with the fee effective at the time of payment.
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, Coastal Development Permit and Tentative Parcel Map (PA2022-0234)**. 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 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 final inspection of the building permit for new construction, a Parcel Map shall be recorded. The Map shall be prepared on the California Coordinate System (North American Datum of 1983, NAD83).
8. Prior to the recordation of the parcel 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.
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 before the completion of the construction project.
10. 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.
11. All improvements shall be constructed as required by Ordinance and the Public Works Department.
12. An encroachment permit is required for all work activities within the public right-of-way.
13. 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 Acacia Avenue frontage, and any damaged concrete panels along the alley frontage per City Standard.
14. Each unit shall be served by its individual water service meter and sewer lateral cleanout. Each water service meter and sewer lateral cleanout shall be installed with a traffic-grade box and cover
15. 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.
16. The rear five (5)-foot setback along the alley frontage shall remain clear of all above-ground improvements.

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17. 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 any parkway hardscape, raised planter, and walls within the Acacia Avenue right-of-way.
 18. Prior to the recordation of the parcel map, the parkway along Acacia Avenue shall be landscaped with new sod or low groundcovers as approved by the City.
 19. Prior to the recordation of the parcel map, a new 36-inch box street tree shall be planted within the Acacia Avenue public right-of-way.
 20. All improvements shall comply with the City's sight distance requirement. See City Standard 110.
 21. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Fire Department

22. Prior to the recordation of the parcel map, a separate fire sprinkler system shall be provided for each unit.
23. A three (3)-foot wide walkway shall be provided on at least one (1) side of the lot(s) from Acacia Avenue to the alley for Fire Department access at all times.

Building Division

24. Prior to the recordation of the parcel map, separate utility services are required for each unit.

RESOLUTION NO. ZA2023-002

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A TENTATIVE PARCEL MAP FOR TWO (2)-UNIT CONDOMINIUM PURPOSES LOCATED AT 1511 AND 1513 CLIFF DRIVE (PA2022-0215)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Villas Terra d'Sole, LLC, with respect to property located at 1511 and 1513 Cliff Drive, legally described as Lot 5, Block A of Tract 1219 requesting approval of a tentative parcel map for condominium purposes.
2. The Applicant requests a tentative parcel map for two (2)-unit residential condominium purposes. No waivers of development standards are requested. An existing duplex has been demolished and a new duplex is under construction. The Tentative Parcel Map would allow each unit to be sold individually. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed.
3. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is not located within the coastal zone; therefore, a coastal development permit is not required.
5. A public hearing was held on January 26, 2023, 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 project is consistent with and eligible for the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The project site was previously developed with a duplex and has been cleared of existing improvements. A new duplex is under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use designation.
2. The subject property is not located within a specific plan area.
3. The project is conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Cliff Drive frontage, as needed, as well as the undergrounding of utilities and the installation of new landscape and two new street trees along the Cliff Drive parkway, consistent with Title 19 (Subdivisions).

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 from Cliff Drive.
3. The site is adequately served by existing utilities, as the site was previously developed with a duplex and there is no increase in density.

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 easements established by the judgment of a court of competent jurisdiction. 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.*

Facts 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.
2. There are no existing easements either through or adjacent to 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 for up to two (2) units.

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 Newport Beach 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. Additionally, this property has historically been occupied by a duplex and a new duplex is currently under construction, thus there is no increase in density proposed. Therefore, this tentative parcel map for condominium purposes will not affect the City in meeting its regional housing need.

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 residential building under construction has been designed to have wastewater 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 Three 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 (PA2022-0215), 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 26TH DAY OF JANUARY, 2023.



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 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 revocation of this Use Permit.
5. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
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 **Villas Terra d'Sole, LLC Residential Condominiums including, but not limited to, Tentative Parcel Map (PA2022-0215)**. 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 the City's costs, attorneys' fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

8. Prior to the recordation of the parcel map, a separate fire sprinkler system shall be installed for each dwelling unit.
9. A three (3)-foot wide walkway shall be provided on at least one side of the lot(s) from Cliff Drive to the rear of the lot for Fire Department access.

Building Division

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. Separate utility services are required for each unit.

Public Works Department

12. 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.
13. 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 (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 the completion of a construction project.
14. All improvements shall be constructed as required by Ordinance and the Public Works Department.
15. An encroachment permit shall be required for all work activities within the public right-of-way.
16. Prior to the recordation of the parcel map, the applicant shall reconstruct all damaged curbs, gutter, and sidewalks along the Cliff Drive frontage per City Standard and all alley panels per City Standard.

17. Each unit shall be served by an individual water service meter, sewer lateral, and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
18. Prior to the recordation of the parcel map, the applicant shall underground all existing overhead utilities.
19. Prior to the recordation of the parcel map, the applicant shall install new sod or low groundcovers of the type approved by the City throughout the Cliff Drive parkway fronting the development site.
20. Prior to the recordation of the parcel map, the applicant shall install two new 36-box trees within the Cliff Drive frontage. The City street tree shall be compliant with City Council Policy G-6.
21. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L.
22. All on-site drainage shall comply with the latest City Water Quality requirements.
23. 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.

RESOLUTION NO. ZA2023-003

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT FOR THE DEMOLITION OF AN EXISTING SINGLE-FAMILY RESIDENCE AND THE CONSTRUCTION OF A NEW TWO (2)-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED, THREE (3)-CAR GARAGE LOCATED AT 2130 SANTIAGO DRIVE (PA2022-121)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jake Winkle, of Winkle Custom Homes, with respect to property located at 2130 Santiago Drive, legally described as Lot 1 of Tract 4224 requesting approval of a coastal development permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new 4,921-square-foot residence and attached 758-square-foot, three (3)-car garage. The project also includes the construction of an in-ground pool, covered, sunken patio, landscaping, hardscaping, drainage, and site walls. The design complies with all applicable development standards and no deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1-6000 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single Unit Residential Detached – 0.0 – 5.9 DU/AC) and it is located within the R-1-6000 (Single-Unit Residential) Coastal Zone District.
5. A public hearing was held on January 26, 2023, 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 15303 under Class 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. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the

demolition of one (1) single-family residence and the construction of a 4,921-square-foot residence, an attached 758-square-foot, three (3)-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. Further, all improvements are proposed on private property and the unpermitted encroachments within the bluff area are required to be removed and restored to native conditions.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, site coverage, setbacks, height, parking, and Bluff Overlay standards.
 - a. Site coverage is limited to 60 percent (5,802 square feet) of the 9,671-square-foot lot area. The proposed site coverage area is approximately 47 percent (4,549 square feet).
 - b. The proposed development provides the minimum required setbacks, which are 6 feet along the front property line along Santiago Drive, 6 feet along each side property line, and 6 feet along the rear property line along the bluff edge.
 - c. The highest roof ridge is approximately 25 feet, 5.25 inches from the established grade (67.09 feet based on the North American Vertical Datum of 1988 [NAVD88]), less than the 29-foot maximum height limit requirement.
 - d. The project includes garage parking for a total of three (3) vehicles, complying with the minimum three (3)-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
 - e. Pursuant to the Bluff Overlay Map B-9A (Upper Newport Bay Bluffs), the property is located on a bluff not subject to marine erosion. Consistent with the Bluff Overlay standards, the proposed principal dwelling, and major accessory structures (including

the swimming pool) are located within Development Area A and setback. Minor accessory structures, including walls and minimal grading, are proposed within Development Area B. There is no Development Area C located on the subject property. Additionally, Conditions of Approval numbers 8 and 9 require the removal of existing, unpermitted improvements located outside the property line on the bluff edge, and the replanting of the bluff edge with native plants.

2. The neighborhood is predominantly developed with one (1)- and two (2)-story, single-family residences. The proposed two (2)-story design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development and expected future development.
3. The lot was previously graded to provide a relatively level building pad for the construction of the original home. The pad sits approximately 68 feet above mean sea level, adjacent to a bluff that descends approximately 50 feet to Upper Newport Bay. A Geotechnical Investigation, dated April 5, 2022, was prepared by Coast Geotechnical, Inc., for the project and found that the proposed grading and construction will not adversely affect the geologic stability of the existing bluff or adjoining properties or structures, provided construction is performed in accordance with report recommendations and sound construction techniques. In addition, the report found that the geologic conditions of the site are favorable with respect to the gross stability of the bluff that descends from the subject property to the bay. The site is not susceptible to earthquake-induced liquefaction or land sliding. The report concludes that as the project site is located adjacent to a descending bluff slope, proper drainage design is of critical importance to the stability of the slope and shall be designed by a Licensed Civil Engineer.
4. The property is in an area known for the potential for seismic activity. 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. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. A biological assessment was completed on August 15, 2022, by Hamilton Biological Inc. The report found no listed or otherwise sensitive species present and ultimately concluded that the project impacts would be less than significant with the implementation of mitigation measures. The project has been conditioned that all

proposed bluff-facing deck railing systems, fences, screen walls, and gates shall use materials designed to minimize bird strikes.

7. The biological assessment, completed on August 15, 2022, by Hamilton Biological, also found unpermitted encroachments of fences, non-native plantings, and irrigation on the bluff area outside the property line, along the Back Bay frontage. The project has been conditioned that all unpermitted encroachments shall be removed and that the bluff shall be replanted with native vegetation. The project is specifically conditioned so that all necessary permits shall be obtained from all appropriate agencies, such as the California Department of Fish and Wildlife, the County of Orange, and/or any other relevant jurisdiction.
8. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the water and the development containing more than 75 percent of impervious surface area, a Water Quality and Management Plan (WQMP) is required. A WQMP prepared by Civilscapes Engineering, Inc., dated March 10, 2022, will be reviewed, and approved by the City's Engineer Geologist before the issuance of building permits. The WQMP includes a polluted runoff and hydrologic site characterization, a sizing standard for best management practices (BMPs), the use of low-impact development and treatment control approaches to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed best management practices BMPs.
9. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
10. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant and noninvasive species. Prior to the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
11. The project site is located approximately 530 feet north of a Back Bay Loop trailhead, a designated public viewpoint as identified in the Coastal Land Use Plan. The project site is also located adjacent to Irvine Avenue, a designated coastal view road as identified by the Coastal Land Use Plan. The viewpoint offers public views to the north, east, and southeast of Upper Newport Bay. Irvine Avenue offers views of Upper Newport Bay to the east. A site evaluation found that the project site is the seventh property within a row of existing residences originally built in the 1960s. The project will simply replace an existing single-family home with a new single-family home. Project implementation will also remove unpermitted improvements and restore a portion of the bluff to a more natural condition.

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 along the Upper Newport Bay Bluffs. Blufftop access along Irvine Avenue is provided adjacent to the site along a trail designated by the Coastal Land Use Plan. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a standard R-1-6000 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 for 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.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment and the exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves coastal development permit (PA2022-121), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF JANUARY, 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Swimming pools shall be of double wall construction with sub drains between the walls and leak detection devices or an equivalent method.*
3. *The only allowed grading within Development Area B is limited to superficial grading for at-grade structure only. No excessive grading shall be permitted in Development Area B.*
4. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or 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.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. The Applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.

7. *Prior to the issuance of a building permit, the Applicant shall submit a final site plan where all proposed bluff-facing deck railing systems, fences, screen walls, and gates utilize materials designed to minimize bird strikes. Such materials may consist, all or in part, of wood; wrought iron; frosted or partially frosted glass, Plexiglas, or other visually permeable barriers that are designed to prevent the creation of a bird strike hazard. Clear glass or Plexiglas shall not be installed unless they contain UV reflective glazing that is visible to birds or appliqués (e.g. stickers/decals) designed to reduce bird strikes by reducing reflectivity and transparency are also used.*
8. *Prior to the building permit final, the Applicant shall remove all existing, unpermitted encroachments outside the confines of the private property along the bluff edge, including, but not limited to, fences, non-native vegetation, and permanent irrigation systems. This shall include the entirety of the existing structures, including portions beyond the property at 2124 Santiago Drive. Prior to the removal of these encroachments, all required permits and/or authorizations shall be obtained by all appropriate jurisdictions (e.g., Department of Fish and Wildlife, County of Orange, and/or other relevant agencies). Replanting with native vegetation along the bluff edges in compliance with the recommendations of the biological assessment shall be required as a part of the aforementioned permit unless alternative restoration is directed by an appropriate agency.*
9. *Permanent irrigation systems shall not be permitted outside the property along the bluff edge. Temporary irrigation systems may be permitted if required as part of compliance with Condition of Approval No. 8.*
10. 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.
11. 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.
12. 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.
13. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

15. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
16. 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 caused the revocation of this Coastal Development Permit.
17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
18. Prior to the issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
19. Prior to the issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.
20. 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.
21. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
22. Prior to the issuance of building permits, the final WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQMP and any changes could require separate review and approval by the Building Division.
23. Prior to the issuance of building permits, the Applicant shall submit a revised 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. The plans shall conform with NBMC Section 21.30.030(C)(3) (Natural Landform and Shoreline Protection), 21.28.040 (Bluff (B) Overlay District), and 21.30.075 (Landscaping).
24. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall

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

25. Prior to the issuance of the building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
27. This Coastal Development Permit (PA2022-121) 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.
28. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any 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 **Winkle Residence including, but not limited to, a coastal development permit (PA2022-121)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing the such proceeding. The Applicant shall indemnify the City for all of the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2023-004

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LOT MERGER AND A COASTAL DEVELOPMENT PERMIT TO DEMOLISH TWO (2) EXISTING SINGLE-FAMILY RESIDENCES AND TO CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ACCESSORY DWELLING UNIT LOCATED AT 921 AND 925 VIA LIDO SOUD (PA2022-0204).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sinclair Associates Architects, Inc., concerning property located at 921 and 925 Via Lido Soud, requesting approval of a lot merger and a coastal development permit. The property at 921 Via Lido Soud is legally described as Lot 318 of Tract No. 907 and the property at 925 Via Lido Soud is legally described as Lot 319 of Tract No. 907.
2. The applicant requests a lot merger to combine two (2) adjacent lots under common ownership to create a single parcel for development purposes and a coastal development permit to demolish two (2) single-family residences to construct a new 7,232-square-foot, two (2)-story, single-family residence with a 599-square-foot accessory dwelling unit and attached 1,143-square-foot, four (4)-car garage with golf cart space. All work will be performed from the landside of the U.S. Bulkhead Line and all construction will occur from private property (i.e., the landside). The project also includes additional appurtenances such as site walls, fences, patios, drainage devices, and landscaping. The design complies with all applicable development standards, including height, setbacks, and floor area limit; no deviations are requested.
3. The subject property is designated RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached - (10.0 - 19.9 DU/AC)) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
5. The proposed project is located within the City of Newport Beach permit jurisdiction pursuant to the Post LCP Certification Permit and Appeal Jurisdiction Map ("Map") and is within the Appeal Area of the California Coastal Commission. Pursuant to the Map, the California Coastal Commission retains jurisdiction within tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time. The proposed project is adjacent to, but not located within tidelands or lands that are subject to the public trust or were subject to the public trust at any time. The proposed bulkhead is contained entirely within private property and all construction would be conducted without the use of mechanized equipment on the water or sand. Additionally, the project is located

outside of submerged lands, which is defined as the lands that lay below the line of mean low tide (from California Code of Regulations Section 13577). Therefore, the project is under the permit jurisdiction of the City of Newport Beach.

6. A public hearing was held on January 26, 2023, 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 under Title 14 of the California Code of Regulations Section 15303 and Section 15315, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) and Class 15 (Minor Land Divisions) because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of two (2) single-family residences and the construction of a new 7,332-square-foot single-family dwelling with an attached 559-square-foot accessory dwelling unit and attached 1,143-square-foot four (4)-car garage. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
3. Class 15 exempts the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning; no variances or exceptions are required; all services and access to the proposed parcels are available; the parcel was not involved in a division of a larger parcel within the previous two (2) years; and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel and complies with the conditions specified above.
4. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

Lot Merger

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

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

Facts in Support of Finding:

1. The proposed lot merger will combine two (2) lots under common ownership by removing the interior lot line between them. The merging of the two (2) lots will not result in the creation of additional parcels.
2. The Project proposes to demolish two existing single-family residences, one of which has historically been used as a guesthouse for the larger residence, to construct a single-family residence and attached accessory dwelling unit (ADU). As a result, the Project complies with the Housing Crisis Act of 2019 and Senate Bill 8 (Skinner) because it does not result in the loss of residential density. The State Department of Housing and Community Development (“HCD”) has verified with the City in an email dated March 23, 2022, that an ADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The property owner has certified that the units are not "protected" units under Section 66330 Subdivision (d)(2). The project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow the single-family and accessory dwelling unit land uses. Under the Coastal Land Use Plan Table 2.1.1-1, the Single Unit Residential (RS-D) category is intended for single-family residential development. Implementation Program (IP) Table 21.18-1 shows “Single-Unit Dwellings – Detached” and “Accessory Dwelling Units” as allowed uses in the R-1 Coastal Zoning District. Therefore, the project of a single-family residence and accessory dwelling unit to replace two existing two (2) single-family residences is consistent with the R-1 zoning and land use designations and does not result in a loss of residential density.
3. The project will replace two (2) single-family residences with one (1) single-family dwelling and one ADU on the merged parcels. Therefore, the lot merger will not affect the City in meeting its regional housing needs and is not considered a reduction of density under SB330.
4. The project is in an area with an average slope of less than 20 percent.
5. The lot merger is consistent with the purpose and intent of NBMC Title 19 (Subdivisions).

Finding:

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

Fact in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The merged lots will retain the R-1 (Single-Unit Residential) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide for a maximum of one (1) residential dwelling unit located on a single legal lot. The zoning designation also allows one (1) accessory dwelling unit per property.
2. The Land Use Element of the General Plan designates both properties as RS-D (Single-Unit Residential Detached), which applies to single-family residential dwelling units. The Coastal Land Use Plan designates the properties as RSD-C (Single-Unit Residential Detached – 10.0 - 19.9 DU/AC) which provides for density ranges from 10.0-19.9 dwelling units per acre. The land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
3. The subject properties are not located within a specific plan area.
4. Newport Beach Municipal Code Sections 20.18.030 and Section 21.18.030 (Residential Coastal Zoning Districts General Development Standards) establish the minimum standards required for lot creation. The minimum lot width required and the minimum lot area required in the R-1 zoning district are 50 feet and 5,000 square feet, respectively. The existing lots are individually 40-foot widths and 3,102 and 3,307 square feet in area. The width of the merged lot will be approximately 80 feet and the lot area will be approximately 6,408 square feet. The original Lido Isle Tract No. 907 is developed with lots that range from 30 to 50-foot width fronting the street. The proposed lot configuration is 80 feet in width fronting Via Lido Soud and complies with the minimum lot width of 50 feet prescribed by the Zoning Code.
5. The proposed width and area are consistent with other merged lots throughout Lido Island. For example, the two adjacent properties to the west have been previously merged with two and three lots from the original Tract No. 907, respectively.

Finding:

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

Fact in Support of Finding:

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

Finding:

- E. *The lots as merged will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots. In making this finding, the review authority may consider the following:*
- a. *Whether the development of the merged lots could significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.*
 - b. *Whether the merged lots would be consistent with the character or general orientation of adjacent and/or adjoining lots.*
 - c. *Whether the merged lots would be conforming or in greater conformity with the minimum lot width and area standards for the zoning district.*

Facts in Support of Finding:

1. Lido Island has a unique shape along the waterfront which results in lots of various shapes and sizes. Properties vary in size and width under the original tract configuration. Within the 900 block of Via Lido Soud, there are existing lots that are smaller, similar in size, or larger than the merged lot.
2. The merged lots do not develop previously underdeveloped land, nor does it disrupt the character or livability of the neighborhood.
3. Orientation and access to the parcel will remain from Via Lido Soud. The resulting lot configuration will not change the existing pattern of development in the area.
4. Fact in Support of Finding C.4 is hereby incorporated by reference.

Waiver of Parcel Map

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

Finding:

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

Facts in Support of Finding:

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

Coastal Development Permit

In accordance with Section 21.52.015 (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:

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

Facts in Support of Finding:

1. Facts in Support of Findings A3, C4, and E3 are hereby incorporated by reference.
2. The project complies with all applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The total proposed floor area, including the residence and enclosed parking, is 8,975 square feet, which complies with the maximum allowable floor area limit of 12,817 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are four (4)-feet along the waterfront property line abutting Via Lido Soud, ten (10)-feet along the street front property line, and four (4)-feet along each side property line.
 - c. The highest two-story roofline is no more than 24 feet from the established grade level of 13.5 feet based on the North American Vertical Datum of 1988 ("NAVD88"), which complies with the maximum height limitation.

- d. The project includes an enclosed garage parking for four (4) vehicles, which complies with the minimum 3-car parking requirement for single-family residences with more than 4,000 square feet of habitable floor area and one parking space for the accessory dwelling unit. A golf cart space is also included.
 - e. The project is conditioned to require the recordation of a deed restriction that will prohibit the use of the ADU for short-term rentals (i.e., less than 30 days) and will also prohibit the sale of the ADU separate from the principal dwelling.
 3. The neighborhood is predominantly developed with two (2)-story single-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development consistent with applicable development standards.
 4. A Coastal Hazards Report and Sea Level Rise Analysis were prepared by Geo Soils, Inc. dated August 29, 2022, for the project. The current maximum bay water elevation is 7.7 NAVD88 (North American Vertical Datum of 1988 (NAVD88) and may exceed the existing 13.5 feet NAVD88 top of bulkhead elevation during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3-foot increase in the maximum water level over the next 75 years (i.e. the life of the structure). Therefore, the sea level is estimated to reach approximately 10.7 feet NAVD88 (the likely range for sea level rise over the 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). Based upon the analysis, the proposed development is reasonably safe from coastal hazards including shoreline movement, waves, wave runup, and flooding for the next 75 years.
 5. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project site will be protected by an existing concrete panel bulkhead fronting the 921 Via Lido Soud parcel and a recently approved new pile and stem wall bulkhead fronting the 925 Via Lido Soud parcel. Both bulkheads meet the current City requirements of a minimum bulkhead elevation of 10.9 feet NAVD88 and the ability to be raised to a height of 14.4 feet NAVD88 without any bayward encroachment.
 6. The finished floor elevation of the first floor of the proposed structure is 14.00 feet (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard for new structures.
 7. Under NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to agree with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). This requirement is included as a condition of approval that will need to be satisfied before the final building permit inspection, respectively.

8. The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) (Development Standards). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits, respectively.
9. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved before 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 before building permit issuance.
10. The property is located adjacent to coastal waters. Pursuant to Section 21.35.030 (Construction Pollution Prevention Plan) of the NBMC, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
11. Pursuant to Section 21.35.050 (Water Quality and Hydrology Plan) of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of an LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP before building permit issuance.
12. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.

Finding:

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

Facts in Support of Finding:

1. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is in Marina Park and is not visible from the site. The project site and other residences along Via Lido Soud may be located within the view shed of the Bay; however, the proposed development 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.

2. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces two existing single-family residences located on standard residential lots with a new single-family residence and accessory dwelling unit consistent with the existing neighborhood pattern of development and in keeping with applicable development standards. The lot merger and proposed single-family residence with ADU do not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
3. Vertical and lateral access to the Bay exists throughout Lido Isle, with the closest vertical access point located along Via Lido Nord approximately 500 feet north where there is access to the water and a grassy area for the public. The project does not include any features that would obstruct access along these routes. The property is zoned for residential uses including single-family and accessory dwelling units.

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) and 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 and the exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit, 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 by 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 26TH DAY OF JANUARY 2023.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved lot merger exhibits, 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. Revisions to the approved exhibits and plans may require an amendment to this approval or the processing of a new planning application.
3. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
4. This approval 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. 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 caused the revocation of this lot merger.
6. *Prior to the recordation of the lot merger, the existing two (2) single-family residences located at 921 and 925 Via Lido Soud shall be demolished.*
7. *Prior to the issuance of a building permit, the lot merger shall be submitted to the Public Works Department for final map review and approval. All applicable fees shall be paid and the approved final map (lot merger) shall be recorded with the County recorder.*
8. *At the time of recordation of the lot merger, the two (2) lots shall be held entirely under one (1) common fee ownership.*
9. *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.*
10. *Prior to the issuance of a building and/or grading permit for an accessory dwelling unit, the property owner shall record a deed restriction with the County Recorder's Office, the form and content of which is satisfactory to the City Attorney, prohibiting the use of the ADU for short term rentals (i.e., less than 30 days) and prohibiting the sale of the ADU separate from the principal dwelling. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.*

11. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the development. This letter shall be scanned into the plan set before building permit issuance.*
12. *Prior to the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
13. *Prior to the issuance of building permits, the bulkheads shall be designed and engineered for the top of the stem wall at 13.5 feet (NAVD88) and engineered to be adaptable to an elevation of 14.4 feet (NAVD88).*
14. *Prior to the final building permit inspection, the new seawall at 925 Via Lido Soud shall be constructed by Coastal Development Permit No. CD2022-009 and Staff Approval No. SA2022-004 (PA2022-025) and by the recommendations of the coastal hazards report prepared by GeoSoils, Inc.*
15. *Improvements landward of the face of the bulkhead on the subject property shall be measured from the established grade at 13.5 feet (NAVD88).*
16. *This Coastal Development Permit does not authorize any development seaward of the private property.*
17. *Prior to the final building permit inspection, the existing glass fence on public property shall be removed. At such time as directed by the City or the California Coastal Commission, the applicant shall agree to and cooperate with both agencies for 1) the removal of any unpermitted development (i.e., existing glass fence) located seaward of the property and within the prolongation of the side property lines of the subject property, and 2) the restoration of the affected area consistent with a restoration plan approved by the City and Coastal Commission.*
18. *All construction activities shall occur within private property and the use of mechanized equipment is prohibited within the Bay and public property.*
19. *All easements shall be plotted, and all easement documents provided upon final map review.*

20. 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.
21. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission).
22. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or 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.
23. 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 under MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
24. All proposed accessory structures located within setback areas shall comply with applicable height limits consistent with Zoning Code Section 20.30.040 (Fences, Hedges, Walls, and Retaining Walls).
25. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.
26. All landscape materials and irrigation systems shall be maintained by 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.

27. 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.
28. Prior to the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
29. 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.
30. 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.
31. 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 **925 Via Lido Soud, LLC Residence including, but not limited to the Lot Merger and Coastal Development Permit (PA2022-0204)**. 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, 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.

Grading

32. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
33. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*

34. *Prior to the issuance of building permits, temporary shoring or temporary excavation details shall be provided with adequate temporary excavation stability. Temporary shoring may be required for dead-men excavation.*

Building Division

35. *Before the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
36. *Before the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
37. *The project shall comply with special flood hazard area (SFHA)AE flood mitigation requirements.*
38. *Prior to the issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
39. *Prior to the issuance of building permits, the project shall demonstrate compliance with applicable pool/spa safety requirements. All pool safety components need to be located on private property.*
40. *Prior to the issuance of building permits, the project plans shall demonstrate internal access to rooftop equipment. A minimum 42-inch high guard/parapet is required adjacent to the roof hatch shown on the plans (Sheet A2.5).*
41. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
42. 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.
43. 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.
44. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.

Public Works Department

45. *No encroachments are permitted within the 4-foot-wide utility easement along Via Lido Soud fronting the property, including but not limited to, pilasters, foundations, eaves, trellis, balconies, or trees.*
46. *Prior to the issuance of building permits, a new sewer clean-out shall be installed per City Standard 406 and shall be located within the limits of the utility easement. All unused sewer laterals shall be abandoned at the property line.*
47. *Prior to the issuance of building permits, the driveway shall be installed per City Standards and the maximum width of the approach bottom shall not exceed 32 feet in width.*

Fire Department

48. *The new residence and accessory dwelling unit shall be protected by a fire sprinkler system.*
49. *The dock shall be protected by a standpipe system per Guideline F.01 (Marinas, Wharfs, and Piers).*
50. *A three-foot-wide fire department accessway shall be provided from the street to the rear of the property and the dock.*

RESOLUTION NO. ZA2023-005

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED JUNIOR ACCESSORY DWELLING UNIT (JADU) LOCATED AT 316 AND 316 ½ GRAND CANAL (PA2022-0155).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christian Rice, Architect, with respect to the property located at 316 and 316 ½ Grand Canal, requesting approval of a coastal development permit.
2. The lot at 316 and 316 ½ Grand Canal is legally described as Lot 9 in Tract 00742.
3. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing nonconforming duplex and the construction of a new three (3)-story, 2,626-square-foot, single-unit residence including a 242-square-foot attached junior accessory dwelling unit (JADU) and 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 Two-Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential, Balboa Island (R-BI) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential 30.0-39.9 DU/AC (RT-E) and it is located within the Two-Unit Residential, Balboa Island (RT) Coastal Zoning District.
6. A public hearing was held on January 26, 2023, 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 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 two (2)-units (duplex) and the construction of a new 2,627-square-foot, single-family residence including a 242-square-foot junior accessory dwelling unit and attached 436-square-foot, two (2)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,628 square feet and the proposed floor area is 2,626 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line abutting the public boardwalk and bay, 3 feet along each side property line, and 0 feet along the rear property line abutting Abalone Drive.
 - c. The highest guardrail is less than 24 feet from the established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
 - d. The project includes garage parking for a total of two (2) vehicles, complying with the minimum two (2)-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area. The JADU does not require any additional parking spaces.
2. The neighborhood is predominantly developed with two (2)- and three (3)-story, single- and two (2)-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. The Project proposes to demolish the existing duplex on-site to construct a single-family residence and attached JADU. As a result, the Project complies with the Housing Crisis Act of 2019 and Senate Bill 8 (Skinner) because it does not result in the loss of residential density. The State Department of Housing and Community Development (“HCD”) has verified with the City in an email dated March 23, 2022, that a JADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The Property Owner has certified that the units are not "protected" units under Section 66330 Subdivision (d)(2). The Project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow single-family and accessory dwelling unit land uses. Under Coastal Land Use Plan Table 2.1.1-1, the Two Unit Residential (RT) category is intended to provide primarily for two (2)-family residential development such as duplexes or townhomes. Implementation Program (IP) Table 21.18-1 shows “Single-Unit Dwellings – Detached” and “Accessory Dwelling Units” as allowed uses in the R-BI Coastal Zoning District. Therefore, the project of a single-family residence and accessory dwelling unit to replace the existing duplex is consistent with the R-BI zoning and land use designations and does not result in a loss of residential density.
4. The project site is separated from the Bay by the public boardwalk and a City-owned bulkhead that is located outside of the property. A Coastal Hazards Report and Sea Level Rise Analysis were prepared by Geo Soils, Inc. dated October 3, 2022, for the project. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988) and may exceed the current top of bulkhead elevation of 8.6 feet (NAVD 88) during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.2-foot increase in the maximum water level over the next 75 years (i.e., the life of the structure). Therefore, the sea level is estimated to reach approximately 10.9 feet NAVD 88 (the likely range for sea level rise over the 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). As conditioned, a waterproofing curb or other waterproof material is required and proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.9 feet (NAVD88). Flood shields (sandbags and other barriers) can be deployed across the openings to protect and prevent flooding to the structure.
5. Most of the streets on Balboa Island are approximately 6.5 feet (NAVD88), and the flooding of Balboa Island is an existing coastal hazard. The public boardwalk is continuous and provides public access around the entire island including Little Balboa Island. A new or higher shoreline protective device is not currently needed to protect the proposed structure, but it is already necessary to protect the existing buildings, streets, and boardwalk. The existing bulkhead is owned by the City of Newport Beach and the adjacent property owner is not able to increase the height of the bulkhead as part of this CDP. If the City adopts comprehensive sea level rise adaptation strategies to protect the public streets and public access areas, then the property owner will also be protected as a result. As a condition of approval, the property owner will be required to waive their rights to future protection devices.

6. The finished floor elevation of the proposed single-family residence is 9.0 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard. The project also includes waterproofing up to 10.9 feet to protect the structure from future sea level rise. The Coastal Hazard Report concludes that the bay water elevation (currently 7.7 feet NAVD 88) will not exceed the proposed flood protection curb or waterproofing around the single-family residence at 10.9 feet (NAVD 88) for the anticipated 75-year life of the structure.
7. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
8. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP is being prepared for the project by Will Rolph of CivilScapes. The WQHP will include a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of an LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs. A Condition of Approval is included that requires a final WQHP to be approved prior to the issuance of building permits.
9. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
10. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.

Finding:

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

Facts in Support of Finding:

1. The project site is not located adjacent to a coastal view road or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoints are approximately 500 feet north on the Marine Avenue bridge and approximately 730 feet south on the Park Avenue bridge. The project site is adjacent to the public boardwalk surrounding the island. However, the proposed single-family residence and junior accessory dwelling unit

complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

2. The front of the proposed residence, which is visible from the public boardwalk and bay, contains substantial architectural treatment and visual interest, in keeping with the design guidelines of the Zoning Code. The design includes modulation of volume throughout the structure, an increased front setback along the public boardwalk beyond what is required by code, and low walls that prevent the appearance of the site from being walled off from the boardwalk and bay. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on existing public views.
3. 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 nonconforming duplex located on a standard R-BI lot with a new single-family residence and an attached junior accessory dwelling unit. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for 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.
4. Vertical access to the bay front public boardwalk and Newport Bay is available approximately 122 feet south of the property at the terminus of Canal Way and the boardwalk; and approximately 144 feet north at the terminus of the alley and the boardwalk. Lateral access is available along the public boardwalk adjacent to the waterfront around Balboa Island. The project does not include any features that would obstruct access along these routes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment and the exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit (PA2022-0155), 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 26TH DAY OF JANUARY, 2023.



Benjamin M. Zdeba, 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 building permit inspection, 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. *Prior to the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
4. *Prior to the issuance of building permits, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the development. This letter shall be scanned into the plan set prior to building permit issuance.*
5. *Prior to the issuance of building permits, the Junior Accessory Dwelling Unit (JADU) shall require a deed restriction that prohibits the sale of the JADU separately and prohibits rental or leasing of the ADU for 30 days or less. The deed restriction will also require the owner of the Property to reside in either the primary dwelling or in the JADU. Owner occupancy is not required if the owner is another governmental agency, land trust, or housing organization within the meaning of Government Code 65852.22.*
6. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way.
7. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the

beach, wetlands, or their buffers. No demolition or construction materials shall be stored on public property.

8. This Coastal Development Permit does not authorize any development seaward of the private property.
9. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one (1) or two (2) short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
10. 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.
11. 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.
12. 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.
13. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

15. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
16. 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 caused the revocation of this Coastal Development Permit.
17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
18. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
19. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
20. *Prior to issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
21. *Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
22. *Prior to the issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved WQHP/WQMP, and any changes could require separate review and approval by the Building Division.*
23. 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.
24. 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.
25. 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

26. Prior to the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
27. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
28. This Coastal Development Permit (PA2022-0155) 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.
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 **Jankiewicz Residence including, but not limited to, Coastal Development Permit (PA2022-0155)**. 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 of all of the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.