



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 March 31, 2023.

ZONING ADMINISTRATOR ACTIONS MARCH 30, 2023

Item 1: Restoration Hardware Lot Line Adjustment (PA2023-0002)
Site Address: 1101 Newport Center Drive

Action: Approved by Resolution No. ZA2023-019 Council District 3

Item 2: Gross Residence Coastal Development Permit (PA2022-0281)
Site Address: 2508 Marino Drive

Action: Approved by Resolution No. ZA2023-020 Council District 2

Item 3: Rainbow Inc. Body Piercings Minor Use Permit (PA2023-0007)
Site Address: 3800 East Coast Highway

Action: Approved by Resolution No. ZA2023-021 Council District 6

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. ZA2023-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING A LOT LINE ADJUSTMENT LOCATED AT 1101 NEWPORT CENTER DRIVE (PA2023-0002)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Ostrom of Stantec Consulting Services, with respect to the property located at 1101 Newport Center Drive, and legally described as Parcel 7 of Parcel Map No. 86-399 requesting approval of a lot line adjustment.
2. The applicant proposes a lot line adjustment to accommodate the new expanded building footprint for Restoration Hardware in Fashion Island. The expanded footprint was approved by Building Permit No. XC2022-1892, issued on February 6, 2023., The approval included the larger building footprint that extends past the existing lot line into the landscaped common area owned by the Irvine Company. A lot line adjustment is required to accommodate the approved expanded commercial building.
3. The subject property is designated Regional Commercial (CR) by the General Plan Land Use Element and is located within the PC56 (North Newport Center, Fashion Island Sub-Area) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 30, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The proposed lot line adjustment affects the shared property line between three (3) parcels under common ownership and is for the purpose of accommodating the new expanded building footprint for Restoration Hardware in Fashion Island. There will be no change in land use, density, or intensity.
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 Newport Beach Municipal Code (NBMC) Section 19.76.020 (Procedures for Lot Line Adjustments), the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The properties at 1101, 1109, and 203 Newport Center Drive are currently developed with a commercial buildings and landscaping. The proposed Lot Line Adjustment will not change the existing General Plan Land Use or Zoning District of the three (3) parcels.
2. The proposed lot line adjustment will not result in a development pattern that is inconsistent with the surrounding commercial area. The Fashion Island mall area is developed with many commercial buildings similar to Restoration Hardware. The use is consistent with the applicable General Plan Land Use and Zoning designation. The lots have identical Zoning and General Plan designations of PC56 and CR. The lots will maintain their current Zoning and General Plan designation and the uses will continue to be consistent with these designations.
3. Future development at both lots will continue to be required to comply with all applicable development standards specified by the PC56 Zoning District. Commercial uses are permissible on the expanded parcel under the existing land use designations and zoning districts.
4. The proposed Lot Line Adjustment is consistent with the purpose identified in NBMC Chapter 19.76 (Lot Line Adjustment). The Lot Line Adjustment constitutes a minor boundary adjustment involving three (3) adjacent lots where land is taken from two (2) lots and is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
5. The Lot Line Adjustment is consistent with the General Plan, and does not negatively impact surrounding landowners, as the adjustment affects interior property lines between three (3) adjacent lots in common ownership. The existing land uses will remain

and have not proven to be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

Finding:

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

Fact in Support of Finding:

1. The proposed lot line adjustment will adjust the property line between three (3) contiguous parcels under common ownership. The number of parcels remains the same as before the lot line adjustment.

Finding:

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

Facts in Support of Finding:

1. The three (3) properties known as 1101, 1109, and 203 Newport Center Drive are located within the PC56 (North Newport Center, Planned Community Fashion Island Sub-area) Zoning District, which is intended to permit commercial uses. The adjacent Irvine Company common areas including the landscaping and parking around the existing property are also located within the PC56 Zoning District, with identical zoning and General Plan designation of Regional Commercial (CR). The proposed lot line adjustment will not change the existing use of the parcels affected. Future development at both lots will continue to be required to comply with all applicable development standards specified by the PC56 Zoning districts.
2. The proposed boundary adjustment will change the internal property lines between the subject properties, reallocating approximately 13,194.92 square feet of land from Parcel 2 of LLA 2009-001 and Parcel 3 of LLA 2009-001 to Parcel 7 of LLA 86-399. The purpose of the lot line adjustment is to accommodate the new building footprint for Restoration Hardware approved by Building Permit No. XC2022-1892.
3. The subject properties are located within the Fashion Island regional mall. The three (3) parcels with surrounding commercial buildings and landscaping will continue to maintain the existing uses and there are no minimum lot area requirements for properties within PC56 Zoning District.

Finding:

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

Fact in Support of Finding:

1. The proposed lot line adjustment affects the interior property lines between three (3) adjacent lots, under common ownership. Legal access to the three (3) properties will be maintained along Newport Center Drive, thus access to the subject properties will not be affected by the adjustment.

Finding:

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

Fact in Support of Finding:

1. Vehicular access to the commercial building is obtained from Newport Center Drive through a shopping center drive aisle to the south of the site and the final configuration will not change. There is no change to access or parking as a result of the lot line adjustment.

Finding:

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

Fact in Support of Finding:

1. The final configuration of the proposed parcels does not result in a requirement for revised setbacks since the parcels are not proposed to be reoriented. The only required setback along Newport Center Drive of 10 feet will be maintained with the revised lot lines.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15305 under Class 5 (Minor Alterations in Land Use Limitations) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Zoning Administrator of the City of Newport Beach hereby approves a Lot Line Adjustment (PA2023-0002) 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 30th DAY OF MARCH, 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. Prior to the recordation of the Lot Line Adjustment, the Applicant shall submit the exhibits to the Public Works Department for final review.
3. Prior to final inspection of the building permit, the Lot Line Adjustment shall be recorded.
4. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Restoration Hardware including, but not limited to, Lot Line Adjustment (PA2023-0002)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2023-020

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-UNIT RESIDENCE AND ATTACHED THREE (3)-CAR GARAGE AT 2508 MARINO DRIVE (PA2022-0281)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Olsen (Applicant) concerning property located at 2508 Marino Drive requesting approval of a coastal development permit (CDP). The property is legally described as Lot 8 of Tract 1140, in the City of Newport Beach, County of Orange, State of California (Property).
2. The Applicant requests a CDP to demolish an existing single-unit residence and construct a new 6,248-square-foot, two (2)-story, single-unit residence with an attached 722-square-foot three (3)-car garage. The project includes landscape, hardscape, pool and subsurface drainage facilities all within the confines of private property. The design complies with all applicable development standards, including height, setbacks, and floor area limit. No deviations of the Newport Beach Municipal Code (NBMC) are requested (Project).
3. The 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 Property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single-Unit Residential Detached) – (6.0 – 9.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zoning District.
5. A public hearing was held on March 30, 2023, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (“CEQA”) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of an existing single-unit residence and the construction of a new 6,248-square-foot, single-unit residence with an attached 722-square-foot garage in the R-1 Zoning District.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - A. The maximum floor area limitation is 14,138 square feet and the proposed floor area is 6,970 square feet.
 - B. The Project provides the minimum required setbacks, which are ten (10) feet along the front property line abutting Marino Drive, four (4) feet along each side property line, and ten (10) feet along the rear property line abutting the alley.
 - C. The highest two (2)-story roofline is 24 feet from the established grade level of 11.86 feet based on the North American Vertical Datum of 1988 (NAVD 88), which complies with the maximum height limitation of 29 feet for sloped rooflines.
 - D. The Project includes enclosed garage parking for three (3) vehicles, which complies with the minimum parking requirement for single-unit residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one (1)- and two (2)-story, single-unit residences. The proposed design, bulk, and scale of the Project are consistent with the existing neighborhood pattern of development.

3. The Project is located approximately 275 feet from the Lido Channel and is separated from the water by Bay Shore Drive and several rows of existing residential development. The finished first floor elevation of the proposed residence is 12.0 feet (NAVD88), which exceeds the minimum required 9.00-foot (NAVD88) elevation standard.
4. The Property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The property owner will be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) – (General Site Planning and Development Standards). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits.
6. The Project's 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.
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 17 is included to require drought-tolerant plantings and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The project site is within a neighborhood that is adjacent to Coast Highway, a designated coastal view road; however, the segment of Coast Highway abutting the Bayshores Community is excluded from this designation. The project site is not located adjacent to a public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas however the project is located on a coastal lot and will replace an existing single-unit dwelling with a new single-unit dwelling that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

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 Property is located between the nearest public road and the sea or shoreline in the private community of Bayshores. Developed in 1941, Bayshores is a 258-lot, single-family gated community located on the Lido Channel, southwest of Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located within the community. The community is accessible from Coast Highway via Bay Shore Drive, a private street. The shoreline is located on the south side and east side of the community and consists of bulkheads and two (2) small sandy beaches.
2. Coastal Land Use Plan Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. 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-unit residence located on a coastal lot with a new single-unit residence. Therefore, the Project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
3. The Property does not currently provide, nor does it inhibit public coastal access. Vertical and lateral access to the bay front is available adjacent to the Bay Shores community at the Balboa Bay Club, immediately west of the Bayshores community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act pursuant to Section 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 30TH DAY OF MARCH, 2023.



Benjamin M. Zueba, 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. *Before 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 before building permit issuance.*
3. 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.
4. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds 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.
5. 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.

6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed 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.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
10. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
12. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
13. *Before 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.*
14. *Before 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.*
15. Before 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.
16. *Before 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 subject to review and approval by the Planning Division.*

17. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
18. Construction activities shall comply with Section 10.28.040 (Construction Activity—Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
19. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified 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

20. Before the issuance of building permits, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
22. This Coastal Development Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code unless an extension is otherwise granted.
23. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney’s fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of the **Gross Residence, including, but not limited to the Coastal Development Permit (PA2022-0281)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney’s fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all 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.

Fire Department

24. A minimum three (3)-foot wide fire department access way is required on one side of the yard from the street frontage to the rear yard.
25. Fire sprinklers are required.

Building Division

26. The Applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
27. The Applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

- Water all active construction areas at least twice daily.
- Cover all haul trucks or maintain at least two feet of freeboard.
- Pave or apply water four times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two hours of any visible dirt deposits on any public roadway.
- Cover or water twice daily any on-site stockpiles of debris, dirt or other dusty material.
- Suspend all operations on any unpaved surface if winds exceed 25 mph.

Emissions

- Require 90-day low-NOx tune-ups for off road equipment.
- Limit allowable idling to 30 minutes for trucks and heavy equipment.

Off-Site Impacts

- Encourage carpooling for construction workers.
- Limit lane closures to off-peak travel periods.
- Park construction vehicles off traveled roadways.
- Wet down or cover dirt hauled off-site.
- Sweep access points daily.
- Encourage receipt of materials during non-peak traffic hours.
- Sandbag construction sites for erosion control.

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six (6)-inch surface layer, subject to review/discretion of the geotechnical engineer.

28. Site drainage shall not discharge into alleys unless proof of a common drainage easement is submitted. Otherwise, drainage shall be within the private property and directed to discharge into Marino Drive.

RESOLUTION NO. ZA2023-021

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MINOR USE PERMIT FOR A BODY PIERCING STUDIO (PERSONAL SERVICES, RESTRICTED LAND USE) IN CONJUNCTION WITH A JEWELRY RETAIL STORE LOCATED AT 3810 EAST COAST HIGHWAY (PA2023-0007)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bruce Kusada of Capital RE Group on behalf of Danny Quintana and Rojelio Rodriguez of Rainbow Inc. with respect to property located at 3810 East Coast Highway, and legally described as Lots 50 and 51 of Block B of Tract No. 673, requesting approval of a minor use permit.
2. The applicant requests a minor use permit to operate a body piercing studio (Personal Services, Restricted land use) in conjunction with a jewelry retail store. The project involves the occupancy of an approximately 395-square-foot commercial suite with one (1) chair and one (1) employee for the body piercings that will be performed in a separate closed room. The hours of operation are 10:00 am to 8:30 pm, daily. No construction is proposed.
3. The subject property is designated Corridor Commercial (CC) by the General Plan Land Use Element and is located within the Commercial Corridor (CC) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on March 30, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project includes the operation of a body piercing studio and no construction is proposed within the existing tenant space.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (F) (Conditional Use Permits and Minor Use 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. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

1. The General Plan Land Use category for this property is CC (Corridor Commercial), which is intended to provide a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.
2. The proposed jewelry retail store and body piercing studio is a retail and personal service use that is consistent with the land uses permitted within this land use designation. The use is intended to serve nearby residents of Corona del Mar as well as visitors to the city.
3. The proposed jewelry retail store and body piercing studio is in an existing commercial building with a variety of commercial uses. While the tenant space is adjacent to residential neighborhoods, the building is oriented towards East Coast Highway where the properties fronting East Coast Highway are also in the CC (Commercial Corridor) Zoning District.
4. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The jewelry retail store is a permitted use in the CC (Commercial Corridor) Zoning District. The body piercing studio (Personal Services, Restricted) is permitted with the approval of a minor use permit. A minor use permit is required as the restricted uses may tend to have a blighting and/or deteriorating effect upon surrounding areas and may need to be dispersed from other similar uses to minimize adverse impacts.
2. A tanning salon (Personal Services, Restricted) is located approximately 315-feet from the proposed body piercing studio. The surrounding commercial uses are primarily retail, food service, beauty shops, and other commercial uses not classified as Personal Services, Restricted. Although not a Personal Services, Restricted land use, the nearest massage business is located approximately 580-feet from the property. Therefore, the use is dispersed from similar uses that may create adverse impacts.

3. The project site is nonconforming because it does not provide the required number of parking spaces. However, Section 20.38.06.B of the NBMC indicates that a use may be changed to a new use without providing additional parking provided no intensification or enlargement occurs and the new use requires a parking rate of no more than one (1) space per 250-square-foot of gross building area. The previous uses were professional office and retail sales which require a parking rate of one (1) space per 250-square-foot and the proposed retail and personal services use requires a parking rate of one (1) space per 250-square-foot. Additionally, no enlargement of the space is proposed. Therefore, the project would not result in an intensification that requires additional parking pursuant to Section 20.38.060(B).

Finding:

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

Facts in Support of Finding:

1. The proposed jewelry retail store and body piercing studio is located within an existing tenant space that is compatible with the surrounding uses including retail commercial uses.
2. The existing commercial building is oriented towards East Coast Highway and facing away from the adjacent residential neighborhoods. The surrounding properties fronting East Coast Highway are also in the CC (Commercial Corridor) Zoning District to provide a range of commercial uses to serve nearby residential neighborhoods. The nearest residential dwelling is approximately 65 feet from the subject building and separated by a parking lot.
3. The hours of operations will be between 10 a.m. to 8:30 p.m., daily with no walk-ins or appointments after 8:00 p.m. The project does not propose late hours (past 11 p.m.) which will minimize any disturbance to residences nearby the property.

Finding:

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

Facts in Support of Finding:

1. The project site is located on East Coast Highway between Poppy Avenue and Hazel Drive, which is a busy commercial corridor with heavy vehicular traffic and pedestrian activity. The parking lot is located at the rear of the property and is conveniently located for patrons and employees. Vehicular access to the parking lot is available via an alley in the rear of the property that is accessible from both Poppy Avenue and Hazel Drive. The proposed jewelry retail store and body piercing studio is not expected to result in increased vehicular and pedestrian traffic that would negatively impact access.

2. The proposed use will occupy an existing tenant space in an existing commercial building serviced by all necessary utilities. No construction is proposed as part of this project. The design, location, shape, size, and operating characteristics of the use are compatible with the existing retail, personal services, personal improvement establishment (martial arts studio) uses on the site and within the surrounding areas.
3. The Life Safety Services Division (Fire Department) has reviewed the project to ensure adequate public and emergency vehicle access is provided and does not have any concerns with the proposed use.

Finding:

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

Facts in Support of Finding:

1. The proposed jewelry and retail store and body piercing studio has been reviewed and this resolution includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The business operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The proposed use has been conditioned with typical daytime and evening hours of operation that will minimize any detriment to the surrounding area. Condition of Approval No. 5 limits walk-ins and appointments to no later than 8:00 p.m. (daily) to ensure that the business is closed by 8:30 p.m.
3. The applicant shall comply with all applicable state, County, and City Health and Human Services regulations including, but not limited to, the State Safe Body Art Act regarding the establishment and operation of business engaged in body piercing. Staff performing body piercings shall be registered and licensed with the Orange County Health Department and said license shall be made available upon request of the City's Code Enforcement Division at any time.
4. The proposed use does not include late hours (past 11 p.m.) or alcohol service. The use does not increase the parking requirement and no construction is proposed within the existing tenant space. Based on these facts, the proposed use will not result in a detriment to the existing retail, service, and residential uses of the surrounding area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) 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 Minor Use Permit, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF MARCH 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
4. *This use permit, as part of PA2023-0007, shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.*
5. *The hours of operation shall be between 10 a.m. and 8:30 p.m., daily. No walk-ins or appointments shall be accepted after 8 p.m., daily.*
6. *No alcohol shall be served or offered on-site.*
7. *All body piercing services shall be conducted within an enclosed room to ensure privacy from patrons of the establishment and to not be visible to the exterior of the business.*
8. *Windows within the piercing room shall be affixed with both a privacy window film and opaque curtains. Curtains shall remain closed during all hours of operations.*
9. *Each operator of the body piercing services shall comply with all applicable state, County, and City Health and Human Services regulations including, but not limited to, the State Safe Body Art Act.*
10. *Each operator of the body piercing service shall be registered and licensed with the Orange County Health Department and said license shall be made available upon request of the City's Code Enforcement Division at any time.*
11. *The facility shall be maintained in a safe and sanitary condition.*
12. This use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

13. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent review and approval of the Planning Division. Depending on the nature of the request, an amendment to this minor use permit or the processing of a new use permit.
14. If construction or alterations are proposed that would require 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 prior to issuance of the building permits.
15. The applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

17. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
18. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays or Holidays.
19. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
20. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
21. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

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22. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
 23. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
 24. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
 25. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
 26. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Rainbow Inc. Body Piercings including, but not limited to, Minor Use Permit (PA2023-0007)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.