



## 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 May 12, 2023.

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### ZONING ADMINISTRATOR ACTIONS MAY 11, 2023

- Item 1: Jacob Residence Coastal Development Permit (PA2022-0262)  
Site Address: 213 and 215 East Edgewater Avenue
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| Action: Approved by Resolution No. ZA2023-030 | Council District | 1 |
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- Item 2: 895 Dove Comprehensive Sign Program Amendment and Modification Permit (PA2022-0273)  
Site Address: 895 Dove Street
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| Action: Approved by Resolution No. ZA2023-031 | Council District | 3 |
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- Item 3: Chhatrisa Residence Coastal Development Permit (PA2022-0261)  
Site Address: 1233 Blue Gum Lane
- |   |                  |   |
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| Action: Approved by Resolution No. ZA2023-032 | Council District | 3 |
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- Item 4: Antepara Residence Coastal Development Permit (PA2022-0290)  
Site Address: 604 Via Lido Nord
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| Action: Approved by Resolution No. ZA2023-033 | Council District | 1 |
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**APPEAL PERIOD:** An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2023-030

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH A DUPLEX AND CONSTRUCT A NEW SINGLE-UNIT RESIDENCE AND JUNIOR ACCESSORY DWELLING UNIT LOCATED AT 213 AND 215 EDGEWATER AVENUE (PA2022-0262)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Oatman Architects (“Applicant”) concerning property located at 213 and 215 Edgewater Avenue, requesting approval of a coastal development permit. The property is legally described as Lot 7 of Block C of Newport Bay Tract (“Property”).
2. The Applicant requests a coastal development permit to demolish an existing duplex consisting of a 745-square-foot unit and a 1,191-square-foot unit, and construct a new 1,348-square-foot, three (3)-story, single-unit residence with a 495-square-foot junior accessory dwelling unit (JADU) and a 426-square-foot, two (2)-car garage. The project includes landscape, hardscape and subsurface drainage facilities all within the confines of private property (“Project”). The Project complies with all development standards and no deviations from the municipal code are requested.
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 Property is categorized by the Coastal Land Use Plan (CLUP) category as RSD-D (Single Unit Residential) - (20.0 - 29.9 DU/AC) and is located within the R-1 (Single-Unit Residential) Coastal Zoning District.
5. A public hearing was held on May 11, 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 Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of an existing duplex consisting of a 745-square-foot unit and a 1,191-square-

foot unit, and construction of a new 1,348-square-foot, three (3)-story, single-unit residence with a 495-square-foot JADU and a 426-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 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 2,269 square feet, which complies with the maximum allowable floor area limit of 2,310 square feet.
  - b. The proposed development will provide the minimum required setbacks, which are six (6)-feet along the front property line along Edgewater Avenue, five (5)-feet along the rear property line abutting the alley, and three (3)-feet along each side property line.
  - c. The highest three (3)-story roofline is no more than 29 feet from the established grade level of 9.0 feet based on the North American Vertical Datum of 1988 ("NAVD 88"), which complies with the maximum height limitation.
  - d. The project includes an enclosed garage parking for two (2) vehicles, which complies with the minimum two (2)-car parking requirement for single-unit residences with less than 4,000 square feet of habitable floor area. Onsite parking is not required for the JADU.
  - e. The project is conditioned to require the recordation of a deed restriction that will prohibit the use of the JADU for short-term rentals (i.e., less than 30 days) and will also prohibit the sale of the JADU separate from the principal dwelling.

2. The neighborhood is predominantly developed with two (2)- and three (3)-story, single-unit residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development consistent with applicable development standards.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared for the project by GeoSoils, Inc, dated September 28, 2022. The project site is protected by a public boardwalk fronting the site along Edgewater Avenue, a small intertidal beach and an existing City-owned bulkhead that will remain in place. The maximum bay water elevation is 7.7 feet North American Vertical Datum of 1988 (NAVD 88) and may exceed the current top of the City-owned bulkhead elevation of 8.6 feet (NAVD 88) during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 2.9-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 10.6 feet NAVD 88 (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California. The report recommends that the bulkhead be raised in the future. Since the bulkhead is not privately owned and cannot be raised by the homeowner, the report recommends waterproofing the new construction. In keeping with City standards, the project has been conditioned to include a waterproofing curb constructed to a minimum elevation of 10.9 feet NAVD 88.
4. The finished floor elevation of the first floor of the Project is 9.00 feet NAVD 88, which complies with the minimum 9.00-foot NAVD 88 elevation standard for new structures.
5. 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.
6. 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.
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 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.
8. 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 (WQMP/WQHP) is required. A preliminary WQHP has been prepared for the project by Thienes Engineering, Inc, dated November 2, 2022. The WQHP includes a

polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a 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.

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 runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
10. The Project will replace a duplex with a new single-unit residence and JADU that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.
11. The project proposes to demolish a duplex and construct a single-unit residence and 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 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 Detached (RSD-D) category is intended for a range of detached single-family residential dwelling units on single legal lots. The LCP Implementation Program 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 demolishing an existing duplex and constructing a single-family residence with JADU is consistent with the R-1 zoning and land use designations and does not result in a loss of residential density.
12. As designated in the CLUP, the Property 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 identified Public View Point is the Balboa Pier, which is approximately 2,000 feet from the project site. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing duplex with a new single-unit residence and JADU that complies with all applicable LCP development standards and maintains a building envelope consistent with the existing and anticipated neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

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. 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 duplex located on a standard residential lot with a new single-unit residence and attached JADU consistent with the existing neighborhood pattern of development and in keeping with applicable development standards. 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. Vertical access to the water is available within close proximity to the site along Coronado Street and Alvarado Place, which are identified as Public Beach Access Locations by the CLUP. Lateral access, as identified by the CLUP, is available along the public Edgewater Avenue boardwalk which provides views of Newport Harbor along the front of the property. 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 (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 (PA2022-0262), 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 11<sup>TH</sup> DAY OF MAY, 2023.**



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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 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 issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
7. *Prior to the issuance of a building 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 JADU for short term rentals (i.e., less than 30 days) and prohibiting the sale of the JADU separate from the principal dwelling. This deed restriction shall remain in effect so long as the accessory dwelling unit exists on the property.*
8. *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.*

9. *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.*
10. *Before issuance of building permits, a waterproofing curb or similar design feature shall be constructed around the proposed residence as an adaptive flood protection device up to a minimum of 10.9 feet (NAVD 88). Flood shields (sandbags and other methods) can be deployed across the openings to protect and prevent flooding to the structure.*
11. *This Coastal Development Permit does not authorize any development seaward of the private property unless an encroachment permit and encroachment agreement is obtained from the Public Works Department for the alteration of the existing wall in the public right-of-way.*
12. *All construction activities shall occur within private property and the use of mechanized equipment is prohibited within Newport Harbor and public property.*
13. 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).
14. 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.
15. 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.

16. 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).
17. 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.
18. 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.
19. 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.
20. 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.
21. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
22. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
23. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
24. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.

25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. 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

31. 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.
32. 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.
33. 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.

34. 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 **Jacob Residence including, but not limited to the Coastal Development Permit (PA2022-0262)**. 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.

#### Fire Department

35. A minimum three (3)-foot wide fire department access way shall be required on one side of the yard from the street frontage to the rear yard.
36. Fire sprinklers shall be provided in accordance with NFPA 13D.

#### Building Division

37. 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.
38. 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 (2) feet of freeboard.
- Pave or apply water four (4) times daily to all unpaved parking or staging areas.
- Sweep or wash any site access points within two (2) 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 (10%) soil moisture content in the top six (6)-inch surface layer, subject to review/discretion of the geotechnical engineer.

39. *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.*
40. *The Project shall comply with FEMA flood requirements as property is located in SFHA Zone A01.*
41. *The Project shall comply with applicable pool and spa safety requirements for spa.*

#### Public Works Department

42. No above-ground encroachments shall be permitted within the rear alley setback area.
43. *Proposed improvements along the Edgewater Avenue right of way shall comply with City Council Policy L-6. An encroachment permit and encroachment agreement shall be obtained for the proposed improvements (decorative wall) within the right-of-way.*

#### Planning Division

44. *The third level deck shall be revised and pulled back to not extend into the minimum 5'-0" rear (alley) setback. The deck railing may extend a maximum of six inches into the setback.*

## RESOLUTION NO. ZA2023-031

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING COMPREHENSIVE SIGN PROGRAM AND MODIFICATION PERMIT FOR A MULTI TENANT OFFICE BUILDING LOCATED AT 895 DOVE STREET (PA2022-0273)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stan Ideker, on behalf of the owner concerning property located at 895 Dove Street, and legally described as Lot 4 and a portion of Lot 5 in Tract 7694 requesting approval of a comprehensive sign program and modification permit.
2. The applicant proposes an amendment to an existing sign program for a multi-tenant office building in Newport Place. The proposed update to the sign program includes an increase in the number of identification monument signs in addition to the existing allowed wall signs, eyebrow signs and renovation of the existing tenant identification monument sign. The proposed monument signs require the approval of a modification permit to exceed the height limit by more than 20 percent for monument signs within the Newport Place Planned Community. If approved, this comprehensive sign program and modification permit would supersede Modification Permit No. 5025.
3. The subject property is designated General Commercial (CG) by the General Plan Land Use Element and is located within the PC-11 (Newport Place Planned Community Professional and Business Office Site 2A) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on May 11, 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 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 11 includes construction or replacement of minor structures such as on-premise signs accessory to (or appurtenant to) existing commercial facilities. The proposed signage is incidental and accessory to the principal commercial office use of the property and will not intensify or alter the use.

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.

#### ***Comprehensive Sign Program***

Pursuant to Newport Beach Municipal Code (NBMC) Section 20.42.120 (Comprehensive Sign Program), the Comprehensive Sign Program allows for an increase in sign height by twenty (20) percent above that allowed and an increase in sign area by thirty (30) percent above that allowed. The Program shall comply with the standards of the Zoning Code, except that deviations are allowed with regard to sign area, total number, location, and/or height of signs. In accordance with NBMC Section 20.42.120, the following standards and facts in support of such standards are set forth:

#### Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter [Chapter 20.42], any adopted sign design guidelines and the overall purpose and intent of this Section [Section 20.42.120].*

#### Facts in Support of Standard:

1. The proposed Comprehensive Sign Program complies with the purpose and intent of NBMC Chapter 20.42 (Sign Standards) because it provides the multi-tenant office complex with adequate identification while guarding against an excessive sign proliferation. The Comprehensive Sign Program preserves and enhances community appearance by regulating the type, size, location, quantity, and illumination of signs.
2. The existing office building has signage pursuant to the existing sign program approved by Modification Permit No. 5025 in 2000. The existing program allows for major tenant(s) to have a maximum of two wall signs at 150-square-feet on any two faces of the building. Additionally, the existing program allows minor tenants to have a total of five eyebrow signs, a maximum 40 square feet each to be placed on any of the four building facades. An existing, four-foot-tall multi-tenant directory sign is located on the property at the corner of Dove Street and Quail Street.
3. PC-11 sign regulations allow monument signs at a maximum height of four feet, with no maximum number of monument signs indicated. Ground signs greater than 150 feet in area shall be greater than 20 feet from the property line along a street. The proposed height of 6 feet for the new monument signs are more than 20 percent taller than the four-foot maximum allowed in the PC-11 sign regulations; therefore, a modification

permit in conjunction with the updated Sign Program is required. The proposed signs are well under the 150-square-foot maximum.

4. The three proposed monument identification signs are as follows: one near the driveway for the parking structure on Quail Street, one at the corner of Dove Street and Quail Street next to the existing multi-tenant directory sign, and one at the parking lot entrance on Dove Street. Each are intended to identify the name of the building, "895", and propose to exceed the maximum height limit of four feet to provide increased visibility for motorists. The monument signs at the driveway entrances are each proposed to be a maximum of six feet in height and a maximum of 23-square-feet in area. The monument sign at the corner of Dove Street and Quail Street will be located on top of an existing planter wall for a total height of 8-feet, 10-inches and a maximum area of 31-square-feet in area. The existing multi-tenant directory monument sign is permitted by the PC-11 regulations to be a maximum height 20-feet. The proposed renovation of this sign will increase the height of the existing multi-tenant directory sign from four feet, to a maximum of 6 feet, in compliance with the PC-11 regulations. All of the proposed monument signs have been reviewed and approved by the Public Works Department for sight distance requirements.
5. PC-11 sign regulations allow building identification limited to a single-entity (single tenant), a maximum of two signs not to exceed 200 square feet each. Consistent with the flexibility in allowing identification of two major tenants instead of one in the existing sign program, the updated sign program proposes to maintain building identification signs for major tenants at a maximum of 200 square feet each for up to two major tenants on a maximum of two facades at any time. The 200 square-foot maximum is consistent with the size allowed in the PC-11 sign regulations. The two proposed awning signs are limited to a maximum letter height of 18 inches to fit on a wood architectural awning above the doorway. These signs will only be visible to pedestrians walking up to the building.

Standard:

- B. The proposed signs shall enhance the overall development, be in harmony with, and relate visually to other signs included in the Comprehensive Sign Program, to the structures and/or developments they identify, and to surrounding development when applicable.*

Facts in Support of Standard:

1. The size, location and layout of the building makes building identification to motorists and tenants difficult. The existing property is designed as a large office campus layout, with the office and parking structures spread out amongst landscaping, outdoor employee areas, and surface parking areas. The street frontage along Dove Street is approximately 290 feet long and the existing building is setback from Dove Street approximately 180 feet. Trees and landscaping in between the street frontage and the building create a visually pleasing aesthetic that beatifies the area and is an amenity for the tenants, employees, and visitors to the property. However, the design



of the site necessitates that proper identification of the property includes the additional monument signs along Dove Street with increased height for visibility.

2. The property is also developed with a parking structure next to the building along the 600-foot property line fronting Quail Street. The parking structure complicates identification of the office building along Quail Street as there is no property identification on the parking structure or the property along Quail Street
3. The building facades are approximately 115-feet and approximately 207-feet in length, and the height of the building is approximately 72-feet. Staff believes the proposed number of signs, area, and height are compatible with the overall massing and bulk of the building and the property.
4. The addition of the monument signs identifying the building along Quail Street and Dove Street is necessary given the size and existing layout of the property. It will provide motorists with the proper identification from both streets. The wall signs, eyebrow signs and monuments signs will promote identification of the office building and tenants without overconcentrating the site with signage
5. See Facts in Support of Standard A.1 and A.3.

Standard:

*C. The sign program shall address all signs, including permanent, temporary, and exempt signs.*

Fact in Support of Standard:

1. The Comprehensive Sign Program includes all project signage. Any future temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of NBMC Chapter 20.42.

Standard:

*D. The sign program shall accommodate future revisions that may be required because of changes in use or tenants.*

Facts in Support of Standard:

1. The Comprehensive Sign Program has been developed to be effective for a multi-tenant commercial office building that is on a large property with an office campus type layout. It also allows flexibility for future changes in tenants.
2. It is not anticipated that future revisions to the Comprehensive Sign Program will be necessary to accommodate changes in tenants or uses. However, the Community

Development Director may approve minor revisions to the Comprehensive Sign Program if the intent of the original approval is not affected.

Standard:

*E. The program shall comply with the standards of this Chapter, except that deviation are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter.*

Facts in Support of Standard:

1. The Comprehensive Sign Program allows for deviations with regards to the type, number, and location of wall signs. The approval conforms to the intent of NBMC Chapter 20.42 and PC-11 sign regulations and enhances the overall development by integrating the project's signs to be appropriately located and scaled.
2. The proposed Comprehensive Sign Program is consistent with NBMC Chapter 20.42 (Sign Standards) and is being processed concurrently with a Modification Permit consistent with NBMC Section 20.52.050 (Modification Permits) to allow the monument signs to be taller than the standard PC-11 limitations in order to increase the visibility of the signs. All other previously approved signage allowances will remain the same and the facts to support their approval are unchanged.
3. The standard requirements of PC-11 do not adequately identify the property with multiple large frontages and are ineffective for motorist site identification. Additionally, the PC-11 requirements do not appropriately allow for multi-tenant office buildings consistent with the findings for the original Modification Permit/ Sign Program in 2000.

Standard:

*F. The Approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter [Chapter 20.42].*

Fact in Support of Standard:

1. The Comprehensive Sign Program does not authorize the use of prohibited signs.

Finding:

*G. Review and approval of a Comprehensive Sign Program shall not consider the signs' proposed message content.*

Fact in Support of Standard:

1. The proposed sign program amendment contains no regulations affecting sign message or content. The proposed amendment to the sign program carries forward the design criteria established upon the adoption of the original sign program and reinforces the high quality conveyed by the existing building architecture of the center.

***Modification Permit***

Pursuant to NBMC Section 20.42.110, deviations in sign height greater than twenty (20) percent and sign area greater than thirty (30) percent are subject to the approval of a modification permit. In accordance with NBMC Section 20.52.050 (Modification Permits), the following findings and facts in support of such findings are set forth:

Finding:

*H. The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The existing property has an office building and parking structure similar with other properties within the surrounding area however, few have this large of a property on a corner with substantial frontages. The frontage along Quail Street one of the longest street property frontages in the area creating the office campus layout of the existing office building and accessory structures. Across Dove Street the Newport/Lexus automobile dealership has a similar property layout with similar size street frontages. The dealership has a comprehensive sign program that approved an increase in the number and size of signage including height and size of monument signs to increase visibility to motorists.

Finding:

*I. The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. The subject property is located in the Newport Place Planned Community (PC11) Planned Community. The existing property is designed as an office campus layout, with the office and parking structures spread out amongst landscaping, outdoor employee areas, and surface parking areas within the 171,991 square foot property. The street frontage along Dove Street is approximately 290-feet long and the existing building is setback from Dove Street approximately 180-feet. Trees and landscaping in between the street frontage and the building create a visually pleasing aesthetic that beautifies the area and is an amenity for the tenants, employees, and visitors to the property.

However, the design of the site necessitates that proper identification of the property includes the additional monument signs along Dove Street with increased height for visibility. There is no maximum number of monument signs provided for in the PC11 regulations; however, with the large frontages, streets and spread-out design of the property, the four-foot maximum height does not provide proper visibility for the site.

2. The property is also developed with a parking structure next to the building along the 600-foot property line fronting Quail Street. The parking structure complicates identification of the office building along Quail Street as there is no property identification on the parking structure or for the property along Quail Street.

Finding:

- J. The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

1. The purpose and intent of the sign regulations is to provide users adequate identification while preserving and enhancing the community's appearance by regulating the type, size, location, quality, design, character, scale, color, illumination, and maintenance of signs. The sign regulations also encourage the design of signs to be complementary to the buildings and uses to which they relate and are harmonious with their surroundings.
2. The proposed increase in the maximum height does not interfere with the purpose and intent of the Zoning Code, as it provides for adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The proposed increase addresses the practical difficulty of reduced visibility for motorists traveling in heavy vehicular traffic on Dove Street and Quail Street as well as identifying the driveway entrances. The increase in height will increase visibility while maintaining the existing aesthetic qualities of the property including the larger setback with open areas, trees and landscaping.

Finding:

- K. There are no alternatives to the modification permit that could provide similar benefits to the Applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Fact in Support of Finding:

1. The PC-11 sign regulations allow monument signs a maximum 150 square feet in area and a maximum four feet tall. The area of the sign does not create the visibility required on these larger parcels along heavily traveled streets. Due to the design of the building frontage, the increased height is necessary to provide improved identification for the

subject property. Sign alternatives would provide inadequate visibility to motorists travelling on Dove Street and Quail Street.

Finding:

- L. The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

1. This approval will allow for an increase in the height of the monument signs, but will not result in a change in intensity or density of the existing commercial office use.
2. The total monuments signs on the large property are limited to four and would be in scale with signs in the surrounding area and will not adversely affect or be detrimental to persons, property, or improvements in the surrounding neighborhood.
3. Compliance with the Municipal Code and the attached conditions of approval is required and will further ensure that the proposed use will not be detrimental.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project exempt from the California Environmental Quality Act pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment. The exceptions identified in Section 15300.2 do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program and Modification Permit PA202-0273, 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 a call for review is filed with the Community Development Director by the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.
4. This resolution supersedes Modification Permit No. 5025, which upon vesting of the rights authorized by this comprehensive sign program and modification permit, shall become null and void.

**PASSED, APPROVED, AND ADOPTED THIS 11<sup>th</sup> DAY OF MAY, 2023.**



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Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

**Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Locations of signs are limited to the designated areas and shall comply with the limitations specified in the Sign Matrix.*
3. Sign location shall comply with the City's line of sight requirements per City Standard STD 105.
4. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused the revocation of this approval.
6. *All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of PC-11 (Newport Place Planned Community).*
7. *A building permit shall be obtained prior to commencement of installation of the new signs.*
8. This Modification may be modified or revoked by the Zoning Administrator if determined should they determine that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
9. All signs must be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the NBMC.
10. The sign installation shall comply with the California Building Code.
11. 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. 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.

12. 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 **895 Dove Sign Program including, but not limited to, PA2022-0273**. 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 which City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.



## COMPREHENSIVE SIGN PROGRAM

**TABLE-COMPREHENSIVE SIGN PROGRAM MATRIX- 895 Dove Street**

SIGN TYPE AND LOCATION	FRONTAGE DESIGNATION SIGN LIMITATIONS/RESTRICTIONS
<p><b>Corner Monuments</b> <b>A.1 Multi-tenant Directory sign and A.2</b></p>	<p><b>A.1 Multi-tenant Directory Corner of Quail Street and Dove Street</b> <u>Height</u>: 6 feet maximum (top of tenant panels to ground and including base) <u>Lettering Size</u>: Minimum 3-inch lettering and Maximum 6.5 inches <u>Illumination</u>: Internally or externally illuminated. Opaque background per sign panel with letters illuminated or halo-illuminated only. Illuminated blank space on panel background is prohibited.</p> <p><b>A.2 Corner of Quail Street and Dove Street</b> <u>Height</u>: maximum 8-feet, 10-inches feet maximum (top of sign to ground and including existing planter wall) <u>Lettering Size</u>: Maximum 13.5 inches <u>Illumination</u>: Internally or externally illuminated. Opaque background per sign panel with letters illuminated or halo-illuminated only. Illuminated blank space on panel background is prohibited.</p>
<p><b>Entrance Monuments B.1 and B.2</b></p>	<p><b>B.1 Entrance Monument Quail Street/ B.2 Entrance Monument Dove Street</b> <u>Height</u>: 6 feet maximum including base <u>Sign Area</u>: 23 square feet <u>Lettering Size</u>: Maximum 13.5 inches <u>Illumination</u>: Internally or externally illuminated. Opaque background per sign panel with letters illuminated or halo-illuminated only. Illuminated blank space on panel background is prohibited.</p>
<p><b>Eyebrow Signs C.1 through C.5</b></p>	<p><b>Frontage is based on tenant(s) preference.</b> <u>Sign Area</u>: 40 sq ft. max. <u>Number of Signs</u>: <b>Five Maximum</b> <u>Illumination</u>: Per Zoning Code Section 20.42.060H.</p>
<p><b>Entrance Awning Signs C.6 and C.7</b></p>	<p><b>Building Entrances</b> <u>Sign Area</u>: 5 sq ft. max. <u>Letter/logo Height</u>: 18 inches max. <u>Number of Signs</u>: <b>Two Maximum</b> <u>Illumination</u>: Per Zoning Code Section 20.42.060H.</p>
<p><b>Wall Signs Top of Building Major Tenants Primary Locations D.1, D.2, D.3, D.4, D. 5</b></p>	<p><b>Frontage is based on tenant(s) preference.</b> <u>Sign Area</u>: 200 sq ft. max. <u>Letter/logo Height</u>: 36 inches max. <u>Number of Signs</u>: <b>Two Maximum</b> <u>Illumination</u>: Per Zoning Code Section 20.42.060H.</p>
<p><b>All window and other exempt signs in accordance with Chapter 20.42.100 (B)</b></p>	

## RESOLUTION NO. ZA2023-032

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO CONSTRUCT A 1,000 SQUARE-FOOT, TWO (2)-BEDROOM ACCESSORY DWELLING UNIT, 229-SQUARE-FOOT ADDITION AND AN INTERIOR REMODEL LOCATED AT 1233 BLUE GUM LANE (PA2022-0261).

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jason Blackmore of JJAB Design LLC, on behalf of Pravin Chhatrisa, concerning the property located at 1233 Blue Gum Lane, requesting approval of a coastal development permit. The property is legally described as Lot 1 of Tract 9620 ("Property").
2. The applicant requests a coastal development permit to allow the construction of a 1,000-square-foot, two (2)-bedroom accessory dwelling unit (ADU) above an existing two (2)-car garage. The project includes a 229-square-foot addition to the existing 487-square-foot garage and an interior remodel to the existing 2,551-square-foot dwelling unit. The project also includes additional appurtenances such as site walls, a trash enclosure, and an exterior staircase. No landscaping is proposed as part of the project. The project complies with all development standards and no deviations from the Newport Beach Municipal Code (NBMC) 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 PC22 (Westcliff Grove) 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), and it is located within the PC22 (Westcliff Grove) Coastal Zone District.
5. A public hearing was held on May 11, 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 pursuant to Title 14 of the California Code of Regulations Section, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the construction of a 1,000-square-foot, two (2)-bedroom ADU above an existing two (2)-car garage. The project also includes a 229-square-foot addition to the existing 487-square-foot garage and an interior remodel to the existing 2,551-square-foot dwelling unit.
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 lot coverage allowed is 60 percent, and the proposed lot coverage is 45 percent.
  - b. The maximum floor area of a two-bedroom ADU is 1,000 square feet, and the proposed accessory dwelling unit is 1,000 square feet.
  - c. The proposed development provides the minimum required setbacks, which are 20 feet along the front property line abutting Blue Gum Lane, 5-feet along each side property line, and 10-feet along the rear property line. The proposed project will construct a 1,000-square-foot, two-bedroom accessory dwelling unit (ADU) above an existing two-car garage. The project includes a 229 square-foot addition to the existing 487-square-foot garage and an interior remodel to the existing 2,551-square-foot dwelling unit. The project also includes additional appurtenances such as site walls, a trash enclosure, and an exterior staircase.
  - d. The highest ridge of the proposed ADU is 26 feet, which complies with the maximum height of 28 feet from the established grade.
  - e. 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.

The project is exempt from providing the minimum one (1)-car garage parking spot for ADUs, given the property is located within one half mile walking distance to the Dover-Castaways transit stop located along Dover Drive.

2. 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.
3. The property is in an area known for the potential of seismic activity. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Construction plans are reviewed for compliance with approved investigations and CBC before building permit issuance.
4. 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 located approximately 1,400 feet southeast of the site at a scenic overlook located along the Castaways Park trail system and is not visible from the site. The proposed ADU 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.
5. The project will construct one (1) ADU on the property. Therefore, the project will not affect the City in meeting its regional housing needs and is not considered a reduction of density under SB330.
6. The finished floor elevation of the proposed ADU is 84.54 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.

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 in Westcliff Grove between the nearest public road and the Newport Back Bay waterway. 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 will construct a new ADU on a site currently developed with an existing single unit dwelling resulting in a net increase of one dwelling unit. Therefore, the project does not involve a change in land use 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. Vertical and lateral access to Upper Newport Bay is available adjacent to the site along the Castaways Park trail system which is accessible from Dover Drive. Access to Castaways Park Trail is located approximately 50 feet west of the property. The proposals of this project are within private property and do not include any features that would obstruct access to 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 under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves 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 11<sup>TH</sup> DAY OF MAY, 2023.**



Benjamin M. Zieba, AICP, Zoning Administrator

## EXHIBIT "A"

### CONDITIONS OF APPROVAL

#### **Planning Division**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. 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). Before the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
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. *Prior to the issuance of building permits, 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 accessory dwelling unit 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.*
5. 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 or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
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 the issuance of building permits, the applicant shall submit a final drainage plan. The plan shall be subject to review and approval by the Building Division.*
  14. *Before 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.*
  15. 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,

and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.

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 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

17. Before 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.
18. 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.
19. This Coastal Development Permit No. PA2022-0261 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.
20. 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 **Chhatrisa Residence, including but not limited to, Coastal Development Permit PA2022-0261**. 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.



**Building Division**

21. Show the ratio of construction valuation on the building permit to market value for existing dwelling is less than 50% (NBMC 15.02.060). See Building Code Policy NBMC 15.50 for options for determining construction valuation and market value. If the ratio is 50% or greater of the dwelling, the project shall comply with all requirements for new construction including (1) fire sprinkler per NFPA 13D, (2) the equivalent of a capillary break beneath the concrete slab on grade according to California Green Building Standards Code Section 4.505.2.1 and (3) a whole house fan according to the Energy Code.
22. If the area of reconstruction is greater than 2,000sf and 50% of total conditioned and unconditioned floor area, the dwelling will be required to be equipped with an NFPA 13D fire sprinkler system (NBMC 15.04.090). Reconstruction is defined as alterations including removal of interior finished surface materials like gypsum board from wall, floor and roof framing. Graphic representations of areas where interior finished surface materials have been removed from ceilings and walls, and replaced with new will be required on plans.
23. The floor and deck separating the existing garage and its addition from the second floor ADU, and the wall separating the garage from the exterior exit stairway serving the ADU, shall be 1-hour fire resistance rated according to testing requirements in ASTM E119, UL263 or Section 703.2.2 of the 2022 California Building Code (CRC R302.3).
24. Exterior walls supporting the 1-hour rated floor and deck assemblies described in item 3 shall be 1-hour rated as described in item 3 (CRC R302.3.1). See lines A, C and 2 on structural floor framing plan.
25. Fire rated floor and deck assemblies described in item 3 shall extend to and be tight against exterior walls, and fire rated wall assemblies shall extend from foundation to underside of deck and floor sheathing (R302.3).
26. Penetrations of fire rated deck, floor and wall assemblies described in item 3 shall be protected as described in CRC R302.4.
27. Where the garage will be used by occupants of the ground floor dwelling and the second floor ADU, the fire rated separation described in CRC R302.6 shall be a complete 1-hour rated wall assembly and the door between the garage and the ground floor dwelling shall be at least 45-min rated with self-closing and self-latching hardware (CRC R302.3, R302.6).

## RESOLUTION NO. ZA2023-033

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-UNIT DWELLING AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 604 VIA LIDO NORD (PA2022-0290)**

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 Architects Inc., concerning property located at 604 Via Lido Nord, and legally described as Lot 70 of Tract 907, requesting approval of a coastal development permit (CDP).
2. The applicant proposes the demolition of an existing 3,128 square foot, 2-story, single-unit dwelling and the construction of a new single-unit dwelling. The new single-unit dwelling will be 3,168 square feet in area, two (2) stories tall, with an attached 510-square-foot, two (2)-car garage. The project also includes the installation of landscaping, hardscaping, drainage, site walls, patio improvements, and a reinforced bulkhead cap for protection against coastal hazards. The design complies with all applicable development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property.
3. The subject property is categorized as Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C 10.0 – 19.9 DU/AC) and the property is within the Single-Unit Residential (R-1) Coastal Zoning District.
5. A public hearing was held on May 11, 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 pursuant to Title 14 of the California Code of Regulations Section 15303, Division 6, Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small, structures including one single-family residence in a zone which permits residential uses. The proposed project consists of the demolition of one (1) single-unit dwelling and the construction of a new 3,168-square-foot, two-story, single-unit dwelling with an attached 510-square-foot, two-car garage in the R-1 coastal 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 (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 4,408 square feet and the proposed floor area is 3,678 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 4 feet along the property line abutting Via Lido Nord, 4 feet along each side property line, and 10 feet along the property line abutting the harbor. The setbacks abutting Via Lido Nord and the harbor are regulated as front setbacks.
  - c. The proposed development will be two (2)-stories. Both the highest guardrail and the highest ridge are less than 24 feet from the established grade (12.94 feet based on the North American Vertical Datum of 1988 [NAVD 88]), 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-unit dwellings with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two (2)-story, single-unit dwellings. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.

3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared for the project by PMA Consulting, Inc., dated December 13, 2022. The report analyzes future sea level rise scenarios over the next 75 years (i.e., the life of the structure). The report assumes a 3-foot increase to the current maximum bay water level of 7.7 feet (NAVD 88), (i.e., the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The bay water level is estimated to reach approximately 10.75 feet (NAVD 88).
4. The project site is protected by an existing bulkhead. The top of the bulkhead is currently at an elevation of 9.61 feet (NAVD 88). The bulkhead is proposed to be raised to an elevation of 11.51 feet (NAVD 88). A bulkhead conditions report was prepared for the project by PMA Consulting, Inc., dated December 13, 2022. The report concludes that once the existing bulkhead is reinforced and raised per the report's recommendations, flooding, wave runup, and erosion will not significantly impact this property over the proposed 75-year economic life of the development.
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). Condition of Approval No. 2 requires the bulkhead maintain a minimum elevation of 10.90 feet (NAVD 88) with a design adaptability of elevation 14.4 feet (NAVD 88).
6. The finished floor elevation of the residence is proposed at 11.51 feet (NAVD88), which complies with the minimum finish floor elevation standard of 9.00 feet (NAVD88).
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). Conditional of Approval No. 3 requires the form be executed and recorded prior to final building permit inspection.
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). Conditional of Approval No. 4 requires the property owner submit a notarized signed letter acknowledging all hazards present at the site prior to the issuance of building permits.
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 abuts coastal waters. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
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 Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQHP has been prepared for the project by Civil Scapes Engineering, dated, December 21, 2022. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected effectiveness of the proposed BMPs.
12. The proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
13. The project site is located on Lido Isle. Lido Isle provides public beach access locations at various street ends. The nearest access point is located approximately 40 feet to the west, at the end of Via Orvieto. There are no designated Coastal View Roads or designated Coastal Viewpoints on the isle as identified in the Coastal Land Use Plan. The nearest designated Coastal Viewpoint is over 3,000 feet away, on the bridge connecting Lido Isle to the Balboa Peninsula. While the project site is within the general viewshed of the portion of Coast Highway designated as a Coastal View Road, the general viewshed of designated viewpoints to the north of the site, and potentially visible from the public access point at the end of Via Orvieto, the proposed dwelling complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Furthermore, the project does not contain any unique features that would degrade the visual quality of the coastal zone. The project should blend into the horizon.
14. As a waterfront property, the northern elevation of the residence will be visible from the harbor. On this elevation, the design uses large, floor to ceiling, windows and a combination of both glass railings and steel column railings for required safety railings. Additionally, the residence is set back from the property line an additional 5 feet beyond the required front yard setback of 10 feet. Between the use of open materials, a building height of less than 24 feet from established grade, and the additional setback, the building is not overly imposing to the waterfront.

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.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to the impact. In this case, the project replaces an existing single-unit dwelling located on a standard R-1 lot with a new single-unit dwelling. 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.
2. As discussed in Fact 13 in support of Finding A, the nearest public beach access location is located to the west of the site. Vertical access to the harbor is available at the nearby street end. Lateral access to the coast is available along the sandy beach at the Via Genoa street end, located approximately 1,350 feet to the west of the project site. The project does not include any features that would obstruct access along these routes.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (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. 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.
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 11<sup>TH</sup> DAY OF MAY, 2023.**



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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 the final building permit inspection, the existing seawall shall be reinforced and capped to a minimum elevation of 10.90 feet (NAVD 88), consistent with the recommendations provided in the Coastal Hazards Report and Sea Level Rise Analysis and Bulkhead Conditions reports prepared by PMA Consulting, Inc., dated December 13, 2022. The bulkhead shall also be engineered for with a future design adaptability of 14.4 feet (NAVD 88).*
3. Before 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.
4. Before 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.
5. 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). Before the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
6. 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.

7. This Coastal Development Permit does not authorize any development seaward of the private property.
8. 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 or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. 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.
10. 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.
11. 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.
12. 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.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.

14. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
15. 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.
16. 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.
17. Before the issuance of a building permit, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
18. Before the issuance of a building permit, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.
19. Before 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.
20. Before the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.
21. Before issuance of a building permit, 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.
22. Before the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.
23. 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.
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	
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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. Before 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 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 **Antepara Residence** including but not limited to, **Coastal Development Permit (PA2022-0290)**. 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.