



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 June 16, 2023.

ZONING ADMINISTRATOR ACTIONS JUNE 15, 2023

- Item 1: EFK Properties LLC Residential Condominiums Coastal Development Permit and Tentative Parcel Map (PA2023-0014)
Site Address: 1818 and 1818 ½ West Balboa Boulevard
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| Action: Approved by Resolution No. ZA2023-038 | Council District | 1 |
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- Item 2: 1123 Balboa Partners LLC Residence Coastal Development Permit (PA2022-0242)
Site Address: 1123 East Balboa Boulevard, Units A & B
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| Action: Approved by Resolution No. ZA2023-039 | Council District | 1 |
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- Item 3: Shafia Residence Coastal Development Permit (PA2023-0075)
Site Address: 2662 Crestview Drive
- | | | |
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| Action: Approved by Resolution No. ZA2023-040 | Council District | 2 |
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- Item 4: Bahia Corinthian Yacht Club Telecommunications Facility Coastal Development Permit (PA2022-0163)
Site Address: 1601 Bayside Drive
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| Action: Approved by Resolution No. ZA2023-041 | Council District | 5 |
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- Item 5: UIP Balboa, LLC Accessory Dwelling Unit Coastal Development Permit and Modification Permit (PA2022-088)
Site Address: 1216 West Balboa Boulevard
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| Action: Approved by Resolution No. ZA2023-042 | Council District | 1 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR PLANNING DIVISION STAFF ACTIONS**
(Non-Hearing Items)

Item 1: Pavilions Temporary Refrigerated Trailers Limited Term Permit (PA2023-0099)
Site Address: 3100 Balboa Boulevard

Action: Approved

Council District 1

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. ZA2023-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING TENTATIVE PARCEL MAP AND COASTAL DEVELOPMENT PERMIT FOR A TWO-UNIT CONDOMINIUM LOCATED AT 1818 AND 1818 1/2 WEST BALBOA BOULEVARD (PA2023-0014)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by EFK Properties LLC, concerning property located at 1818 and 1818 ½ Balboa Boulevard West, and legally described as Lot 10, Block 118 in Section B Newport BH requesting approval of a Tentative Parcel Map and Coastal Development Permit.
2. The applicant proposes a Tentative Parcel Map and Coastal Development Permit for a two (2)-unit condominium. A duplex has been demolished and a new duplex is currently under construction. No waivers of Newport Beach Municipal Code (NBMC) Title 19 (Subdivisions) are proposed. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (RT-D 20.0-29.9 DU/AC) and it is located within the Two Unit Residential (R-2) Coastal Zone District.
5. A public hearing was held on June 15, 2023, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and Zoning, no variances or exceptions are required, all services and access to the proposed parcels are available. The parcel was not involved in a division of a larger parcel within the previous two (2) years, and the

parcel does not have an average slope greater than 20 percent. The Tentative Parcel Map is for condominium purposes and is consistent with all requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. A duplex has been demolished and a new duplex is currently under construction. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the RT General Plan Land Use Designation.
2. The subject property is not located within a specific plan area.
3. The project has been conditioned to require public improvements, including the reconstruction of sidewalks, curbs, and gutters along the Balboa Boulevard frontage and any damaged concrete alley panels consistent with NBMC Title 19.

Finding:

- B. That the site is physically suitable for the type and density of development.*

Facts in Support of Finding:

1. The lot is physically suitable for two (2)-unit residential development because it is regular in shape and size. An existing duplex has been demolished and a new duplex is currently under construction X2022-0718
2. The new duplex development is compliant with the Zoning Code Section 20.18.030 Table 2-3 minimum site area per dwelling unit of 1,000 square feet.
3. The subject property is accessible from West Balboa Boulevard and from the alley in the rear.

4. The subject property is accessible from the alley and is adequately served by all existing utilities.

Finding:

- C. *That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage nor substantially and avoidably injure fish or wildlife or their habitat. However, notwithstanding the foregoing, the decision making body may nevertheless approve such a subdivision if an environmental impact report was prepared for the project and a finding was made pursuant to Section 21081 of the California Environmental Quality Act that specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.*

Facts in Support of Finding:

1. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
2. The project is categorically exempt under Section 15315 (Title 14, Division 6, Chapter 3) of the CEQA Guidelines – Class 15 (Minor Land Alterations).

Finding:

- D. *That the design of the subdivision or the type of improvements is not likely to cause serious public health problems.*

Fact in Support of Finding:

1. The Tentative Parcel Map is for residential condominium purposes. All improvements associated with the project will comply with all Building, Public Works, and Fire Codes, which are in place to prevent serious public health problems. Public improvements will be required of the developer per NBMC Section 19.28.010 (General Improvement Requirements) and Section 66411 (Local Agencies to Regulate and Control Design of Subdivisions) of the Subdivision Map Act. All ordinances of the City and all Conditions of Approval will be complied with.

Finding:

- E. *That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision. In this connection, the decision-making body may approve a map if it finds that alternate easements, for access or for use, will be provided and that these easements will be substantially equivalent to ones previously acquired by the public. This finding shall apply only to easements of record or to easements established by judgment of a court of competent jurisdiction and no authority is hereby granted to the City Council to*

determine that the public at large has acquired easements for access through or use of property within a subdivision.

Fact in Support of Finding:

1. The design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the proposed development, because there are no public access easements located on the property.

Finding:

F. That, subject to the detailed provisions of Section 66474.4 of the Subdivision Map Act, if the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Williamson Act), the resulting parcels following a subdivision of the land would not be too small to sustain their agricultural use or the subdivision will result in residential development incidental to the commercial agricultural use of the land.

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The property was previously developed with a residential use and is located in a Zoning District that permits residential uses.

Finding:

G. That, in the case of a "land project" as defined in Section 11000.5 of the California Business and Professions Code: (1) there is an adopted specific plan for the area to be included within the land project; and (2) the decision making body finds that the proposed land project is consistent with the specific plan for the area.

Facts in Support of Finding:

1. California Business and Professions Code Section 11000.5 has been repealed by the Legislature. However, this project site is not considered a "land project" as previously defined in Section 11000.5 of the California Business and Professions Code because the project site does not contain 50 or more parcels of land.
2. The project is not located within a specific plan area.

Finding:

H. That solar access and passive heating and cooling design requirements have been satisfied in accordance with Sections 66473.1 and 66475.3 of the Subdivision Map Act.

Fact in Support of Finding:

1. The Tentative Parcel Map and any future improvements are subject to Title 24 of the California Code of Regulations (the California Building Code) that requires new construction to meet minimum heating and cooling efficiency standards depending on location and climate. The Newport Beach Building Division enforces Title 24 compliance through the plan check and inspection process.

Finding:

- I. That the subdivision is consistent with Section 66412.3 of the Subdivision Map Act and Section 65584 of the California Government Code regarding the City's share of the regional housing need and that it balances the housing needs of the region against the public service needs of the City's residents and available fiscal and environmental resources.*

Fact in Support of Finding:

1. The two (2)-unit dwelling that is under construction is consistent with the intended uses of the R-2 Zoning District, which allows two (2) residential units on the property. Therefore, the Tentative Parcel Map for condominium purposes will not affect the City in meeting its regional housing need.

Finding:

- J. That the discharge of waste from the proposed subdivision into the existing sewer system will not result in a violation of existing requirements prescribed by the Regional Water Quality Control Board.*

Fact in Support of Finding:

1. The new two (2)-unit dwelling is designed so that wastewater discharge into the existing sewer system complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- K. For subdivisions lying partly or wholly within the Coastal Zone, that the subdivision conforms with the certified Local Coastal Program and, where applicable, with public access and recreation policies of Chapter Three of the Coastal Act.*

Fact in Support of Finding:

1. The subject property is located within the coastal zone. A Coastal Development Permit is requested in conjunction with the proposed Tentative Parcel Map and condominium conversion application. The project complies with the certified Local Coastal Program (LCP) and public access and recreation policies of Chapter 3 of the Coastal Act. The Facts in Support of Findings L and M for the *Coastal Development Permit* (below) are hereby incorporated by reference.

Coastal Development Permit

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

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two (2)-unit residential condominium purposes. The existing duplex conforms to all applicable development standards, including floor area limit, setbacks, height, and off-street parking. The proposed subdivision and improvements are consistent with the density of the R-2 Coastal Zoning District.
2. The property is located in an area known for the potential for seismic activity. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The Tentative Parcel Map is for a property that is over 200 feet from the harbor and is not near any natural landforms or environmentally sensitive areas.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is a tentative parcel map for two (2)-unit condominium purposes. The project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The Tentative Parcel Map is for a property that is over 200 feet from the harbor and approval of the parcel map will not affect public recreation, access, or views. There is an alley way and a block of two-unit properties, and a public parking area between the subject property and the beach/bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves PA2023-0014, 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 after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development by the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

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

1. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
2. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from "duplex" to "condominium." The development will not be condominiums until this permit is final.
3. The building permit for the new construction shall not be final until after recordation of the parcel map.
4. 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 19 (Subdivisions) and Title 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.
5. 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 EFK Properties, LLC including, but not limited to, PA2023-0014. 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 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.

Public Works Department

6. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD83). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The**

Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.

7. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (1-inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
8. All improvements shall be constructed as required by Ordinance and the Public Works Department.
9. The curb, gutter and sidewalk along the Balboa Boulevard West frontage and all damaged alley panels along the alley frontage, shall be reconstructed per City Standard.
10. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover.
11. All existing overhead utilities shall be undergrounded.
12. An encroachment permit is required for all work activities within the public right-of-way.
13. Any existing private, non-standard encroachments within the public right-of-way and/or extensions of private, non-standard improvements into the public right-of-way fronting the development shall be removed.
14. All improvements shall comply with the City's sight distance requirement pursuant to City Standard 110.
15. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.

Building Division

16. Independent utility services shall be provided for each unit.
17. Independent fire risers shall be required for each unit.
18. Construction shall comply with the California Code of Regulations.

RESOLUTION NO. ZA2023-039

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 1123 EAST BALBOA BOULEVARD (PA2022-0242)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sagemodern Architects (“Applicant”) concerning property located at 1123 East Balboa Boulevard, requesting approval of a coastal development permit. The property is legally described as Lot 11 of Block 18 of Balboa Tract East Side (“Property”).
2. The Applicant requests a coastal development permit to demolish an existing two (2)-story duplex consisting of an approximately 1,650-square-foot unit, an approximately 300-square-foot unit, and an approximately 750-square-foot garage, and to construct a 2,537-square-foot, three (3)-story single-unit residence with a 243-square-foot junior accessory dwelling unit (JADU) and attached 442-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 Newport Beach Municipal Code (NBMC) are requested.
3. The Property is designated RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
4. The Property is located within the coastal zone. The Property is categorized by the Coastal Land Use Plan (CLUP) as RT-D (Two Unit Residential) - (20.0 - 29.9 DU/AC) and is located within the R-2 (Two-Unit Residential) Coastal Zoning District.
5. A public hearing was held on June 15, 2023, online via Zoom. A notice of the time, place, and purpose of the hearing was given by the 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 an approximately 1,650-square-foot unit and an approximately 300-square-foot unit, and construction of a 2,537-square-foot, three (3)-story single-unit residence with a 243-square-foot junior accessory dwelling unit (JADU) and attached 442-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, which includes the JADU and garage, is 3,222 square feet. This complies with the maximum allowable floor area limit of 3,456 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are eight (8)-feet along the front property line along East Ocean Front and three (3)-feet along each side property line. There is no required setback along the property line abutting Balboa Boulevard.
 - c. The highest three (3)-story roofline is no more than 29 feet from the established grade which complies with the maximum height limitation of 29 feet for sloped roofs. Horizontal design elements including flat roofs and deck railings are no more than 24 feet from established grade.
 - 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 and two-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 October 19, 2022. The report analyzes future sea level rise (SLR) scenarios and potential impacts to the project site over the next 75 years (i.e. the life of the structure). The property is fronted by a public boardwalk along East Ocean Front Boulevard (Newport Balboa Bike Trail) and a wide sandy beach which is normally more than 400 feet in width. The maximum current water elevation is 7.7 feet North American Vertical Datum of 1988 (NAVD 88). The report concludes that the “likely” sea level rise range for the project site is 1.3 to 3.2 feet with a lower probability (less than 5%) of SLR of about 4.0 feet. Therefore, the sea level is estimated to reach approximately 9.0 to 10.9 feet NAVD 88, which is 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 concludes that the project site is reasonably safe from coastal hazards for a 75-year design life of the proposed development.
4. The finished floor elevation of the first floor living area of the proposed structure is 13.25 feet North American Vertical Datum of 1988 (NAVD 88), with a garage finished floor level of 9.16 feet NAVD 88. This 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 Management Plan (WQMP) is required. A preliminary WQMP has been prepared for the project by Commercial Development Resources, dated September 23, 2022. The WQMP 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 WQMP 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-2 Coastal Zoning District. Therefore, the demolition of an existing duplex and construction of a single-family residence with JADU is consistent with the R-2 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 CLUP. The nearest identified Public Viewpoint is the Balboa Pier, which is approximately 1,500 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.

13. The front and rear of the proposed structure, which are visible from the public beach and the alleyway behind the site, contain architectural treatment and visual interest, in keeping with the design guidelines of the Zoning Code. The new structure would comply with all required setbacks and the design includes modulation of volume, use of varied materials and articulated roofline. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on existing public views.

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 proximity to the site along C and D Streets, which are identified as Public Beach Access Locations by the CLUP. Lateral access, as identified by the CLUP, is available along the East Ocean Front boardwalk. 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 (PA2022-0242), 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 15TH DAY OF JUNE, 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. 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 permit, 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. *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.*
11. *All construction activities shall occur within private property and the use of mechanized equipment is prohibited on adjacent public property.*
12. 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).
13. 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.
14. 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.

15. 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).
16. 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.
17. 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.
18. 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.
19. 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.
20. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
21. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
22. 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.
23. 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.
24. *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.*
25. *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.*

- 26. 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.
- 27. 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.
- 28. 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.
- 29. 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

- 30. 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.
- 31. 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.
- 32. 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.
- 33. 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 **1123 Balboa Partners LLC Residence including, but not limited to the Coastal Development Permit (PA2022-0242)**. This indemnification

shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of the City's costs, 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

34. 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.
35. Fire sprinklers shall be provided in accordance with NFPA 13D.

Building Division

36. 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.
37. 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.

Public Works Department

38. *The project shall comply with the Ocean Front Encroachment Policy Guidelines in MC21 Appendix C. An encroachment permit shall be obtained for encroachments into the public right of way. Walls and fences shall not exceed 36 inches in height, measured from the adjacent sidewalk grade. The proposed slab elevations within the oceanfront encroachment area shall match the existing slab elevation. Landscape within the oceanfront encroachment area shall be limited to a maximum 36" height, measured from the adjacent sidewalk grade.*
39. *The proposed curb drain along the westerly side of the property shall be modified to not impact the existing street tree and must exit through a full-height curb.*
40. *A new sewer clean out shall be installed on the existing sewer lateral per City Standard 406.*

RESOLUTION NO. ZA2023-040

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-UNIT RESIDENCE AND ATTACHED THREE (3)-CAR GARAGE AT 2662 CRESTVIEW DRIVE (PA2023-0075)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Pacific Coast Architects (Applicant) concerning property located at 2662 Crestview Drive requesting approval of a coastal development permit (CDP). The property is legally described as Lot 60 of Tract 1014 (Property), requesting approval of a coastal development permit (CDP).
2. The Applicant requests a CDP to demolish an existing single-unit residence and construct a new 3,466-square-foot, two (2)-story, single-unit residence with an attached 763-square-foot three (3)-car garage. The Project includes landscape, hardscape and subsurface drainage facilities all within the confines of private property. The design complies with all applicable development standards, including height, setbacks, and floor area limit. No deviations of the Newport Beach Municipal Code (NBMC) are requested (Project).
3. The Property is categorized as RS-D (Single Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan (CLUP) category is RSD-B (Single-Unit Residential Detached) – (6.0 – 9.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zoning District.
5. A public hearing was held on June 15, 2023, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

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

2. Class 3 exempts the demolition of up to three (3) single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of an existing single-unit residence and the construction of a new 3,466-square-foot, single-unit residence with an attached 763-square-foot garage in the R-1 Zoning District.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The Project 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 5,440 square feet and the proposed floor area is 4,229 square feet.
 - B. The Project provides the minimum required setbacks, which are ten (10) feet from the front property line along Crestview Drive, three (3) feet from each side property line, and ten (10) feet from the rear property line along the alley.
 - C. The highest two (2)-story roofline is approximately 28 feet from the established grade level of 13.68 feet based on the North American Vertical Datum of 1988 (NAVD 88), which complies with the maximum height limitation of 29 feet for sloped rooflines.
 - D. The Project includes a three (3)-car garage, which exceeds the minimum parking requirement for single-unit residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one (1)- and two (2)-story, single-unit residences. The proposed design, bulk, and scale of the Project are consistent with the existing neighborhood pattern of development.

3. The Project is located approximately 400 feet from the Lido Channel and is separated from the water by Bay Shore Drive and several rows of existing residential development. The finished first floor elevation of the proposed residence is 14.40 feet (NAVD 88), which exceeds the minimum required 9.00-foot (NAVD 88) elevation standard.
4. The Property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The property owner will be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c) – (General Site Planning and Development Standards). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits.
6. The Project's design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather runoff and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 17 is included to require drought-tolerant plantings and prohibits invasive species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The Property is located within the Bayshores Community, a residential neighborhood that is adjacent to West Coast Highway. Although a significant stretch of West Coast Highway is designated by the CLUP as a coastal view road the segment of West Coast Highway abutting the Bayshores Community is excluded from this designation. The Property is not located adjacent to a public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The Property may be located within the viewshed of distant public viewing areas. However, the project is located on a coastal lot and will replace an existing single-unit dwelling with a new single-unit dwelling that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the Project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

Finding:

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

Facts in Support of Finding:

1. The Property is located between the nearest public road and the sea or shoreline in the Bayshores community. Developed in 1941, Bayshores is a gated neighborhood consisting of 258 single-family lots and located on the Lido Channel, southwest of Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located within the community. The community is accessible from Coast Highway via Bay Shore Drive, a private street. The shoreline is located on the south side and east side of the community and consists of bulkheads and two (2) small sandy beaches.
2. CLUP Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the Project replaces an existing single-unit residence located on a coastal lot with a new single-unit residence. Therefore, the Project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the Project is designed and sited so as not to block or impede existing public access opportunities.
3. The Property does not currently provide, nor does it inhibit public coastal access. Vertical and lateral access to the bay front is available adjacent to the BayShores community at the Balboa Bay Club, immediately west of the Bayshores community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) because it has no potential to have a significant effect on the environment and the exceptions to the Class 3 exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit, subject to the conditions outlined in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director by the provisions of Title 21 Local Coastal Program

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

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2023.



Benjamin M. Zdeba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
3. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
5. 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.
6. *Before issuance of building permits, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the development. This letter shall be scanned into the plan set before building permit issuance.*
7. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
8. 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:

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- 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.
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. *Before issuance of building permits, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
14. *Before issuance of building permits, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
15. Before issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
16. *Before the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be subject to review and approval by the Planning Division.*

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

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

20. Before the issuance of building permits, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
21. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
22. This Coastal Development Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code unless an extension is otherwise granted.
23. To the fullest extent permitted by law, the applicant shall indemnify, defend and hold harmless the City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney’s fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City’s approval of the **Shafia Residence, including, but not limited to the Coastal Development Permit (PA2023-0075)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney’s fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all the City’s costs,

attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions outlined in this condition. The applicant shall pay to the City upon demand any amount owed to the City under the indemnification requirements prescribed in this condition.

Fire Department

24. A minimum three (3)-foot wide fire department access way is required on one side of the yard from the street frontage to the rear yard.
25. Fire sprinklers are required.
26. *The Project shall account for Fire Department pathways to roof ridge and setbacks at ridge when designing roof for solar. Solar panel location and placement shall comply with Section 1205 of the California Fire Code.*

Building Division

27. 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.
28. The Applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

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

Emissions

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

Off-Site Impacts

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

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.

- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six (6)-inch surface layer, subject to review/discretion of the geotechnical engineer.

29. Outdoor barbeque may not be located under combustible framing.

Public Works Department

30. *No above-ground or below-ground encroachments are allowed within the limits of the utility easement along the rear of the property.*

RESOLUTION NO. ZA2023-041

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO ALLOW A NEW, CLASS 1 (STEALTH/SCREENED) WIRELESS TELECOMMUNICATIONS FACILITY LOCATED AT 1601 BAYSIDE DRIVE (PA2022-0163)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Coastal Business Group (“Applicant”), with respect to property located at 1601 Bayside Drive, requesting approval of a coastal development permit.
2. The parcel at 1601 Bayside Drive is legally described as Parcel 1 of Parcel Map No. 291-47
3. The Applicant proposes a new Class 1 (stealth) wireless telecommunications facility (“telecom”) at the Bahia Corinthian Yacht Club (“BCYC”). The proposal includes two (2) new faux chimney structures to match an existing faux chimney structure. One of the two will house up to four (4) panel antennas and the other will house up to two (2) panel antennas for a total of six (6) new panel antennas. All supporting equipment will be located within a new equipment enclosure at the ground level. The proposed development complies with all applicable development standards including height, setbacks and floor area limits. No deviations are requested. All proposed improvements are within the confines of private property.
4. The subject property is designated Private Institutions (PI) by the General Plan Land Use Element and is located within the Private Institutions (PI) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Private Institutions (0.0 – 0.30 FAR) (PI-A) and the property is located within the Private Institutions (PI) Coastal Zone District.
6. A public hearing was held on June 15, 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, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. The proposed project is the installation of a new telecom facility at an existing nonresidential building. The project consists of two (2) new faux chimney structures, and supporting equipment which will be located within a new equipment enclosure at the ground level. No additional square footage is being created as a result of the project.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (“NBMC”) Section 21.52.015 (Coastal Development Permits, Findings and Decision), 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. Telecoms are an allowed use within the PI District per Table 21.26-1 (Allowed Uses) of NBMC Section 21.26.020 (OS, PF, PI, PR, and TS Coastal Zoning District Land Uses).
2. The proposed telecom is considered a Class 1 (Stealth/Screened) installation which will be collocated at an existing facility. NBMC Section 21.49.040 (Telecom Facility Preferences and Prohibited Locations) lists collocated and Class 1 installations at the top of the installation preference list.
3. The design of the proposed faux chimney structures closely matches that of the existing faux chimney occupied by antennas and equipment for Verizon Wireless. This will help to ensure the telecom blends into the surrounding environment as common architectural elements.
4. The proposed faux chimney structures will comply with the maximum height limit of 40 feet and will serve to screen all proposed antennas and related equipment. The supporting equipment will be located at ground level to the immediate south of the BCYC building within a new concrete masonry unit (“CMU”) wall enclosure. Therefore, the proposed telecom will be completely screened from view.
5. The proposed telecom complies with NBMC Section 21.30.100 (Scenic and Visual Quality Protection) inasmuch as it is not located in any public viewshed to or along the ocean, bay, beach or coastal bluffs. The closest public viewpoint identified in the Coastal Land Use Plan is from Irvine Terrace Park to the east from which the BCYC building is not visible due to intervening development and landscaping. Visual simulations have

been prepared demonstrating that the faux chimneys will blend in with and be architecturally compatible with the existing building as viewed from the water.

6. All proposed landscaping around the supporting equipment enclosure will comply with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the bay front is provided by way of an existing 10-foot-wide pedestrian easement over the BCYC property. Said easement will not be impacted by the proposed telecom installation.
2. Lateral access and views of the ocean are also available along an existing 6-foot-wide public sidewalk in front of the project site.
3. See Fact in Support of Finding A(5).
4. The project will allow the collocation of a telecom that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated future surrounding neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the coastal zone.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit PA2022-0163, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of NBMC Title 21 Local Coastal Implementation Plan. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE 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. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers.
3. The telecom facility approved by this permit shall comply with all applicable rules, regulations, and standards of the Federal Communications Commission ("FCC") and the California Public Utilities Commission ("CPUC").
4. The telecom facility approved by the permit shall comply with any easements, covenants, conditions, or restrictions on the underlying real property upon which the facility is located.
5. Anything not specifically approved by this permit is not permitted and must be addressed in a separate and subsequent Telecom Permit review.
6. *The wireless telecommunications ("telecom") facility approved by this permit shall not exceed twenty-seven feet (27') in height from the finished floor, as depicted on the project plans attached to the staff report dated June 15, 2023. A Height Certification Inspection shall be required prior to final of building permits.*
7. *The Applicant shall continually maintain the telecom facility so that it retains its original appearance at the time the building permit is finalized by the City of Newport Beach.*
8. On an annual basis, the Applicant shall conduct maintenance inspections of the wireless telecom facility, including the faux chimney, equipment enclosure areas and walls, and make all necessary repairs. The Community Development Director may require additional inspections and/or maintenance activities at his/her discretion.
9. The Applicant shall not prevent the City of Newport Beach from having adequate spectrum capacity on the City's 800 MHz radio frequencies at any time.
10. The facility shall transmit at the approved frequency ranges established by the FCC. The Applicant shall inform the City in writing of any proposed changes to the frequency range in order to prevent interference with the City's Public Safety radio equipment.

11. Should interference with the City's Public Safety radio equipment occur, use of the telecom facility authorized by this permit may be suspended until the radio frequency interference is corrected and verification of the compliance is reported.
12. The Applicant recognizes that the frequencies used by the cellular facility located at 1601 (CS) Bayside Drive are extremely close to the frequencies used by the City of Newport Beach for public safety. This proximity will require extraordinary "comprehensive advanced planning and frequency coordination" engineering measures to prevent interference, especially in the choice of frequencies and radio ancillary hardware. This is encouraged in the "Best Practices Guide" published by the Association of Public-safety Communications Officials-International, Inc. ("APCO"), and as endorsed by the FCC.
13. The Applicant shall provide a "single point of contact" for the carrier in its Engineering and Maintenance Departments that is monitored twenty-four (24) hours per day to ensure continuity on all interference issues, and to which interference problems may be reported. The name, telephone number, fax number, and e-mail address of that person shall be provided to the Community Development Department and Newport Beach Police Department's Support Services Commander prior to activation of the facility. If the point of contact changes, the City shall be alerted and updated immediately.
14. Appropriate information warning signs or plates shall be posted at the access locations and each transmitting antenna. In addition, contact information (e.g., a telephone number) shall be provided on the warning signs or plates. The location of the information warning signs or plates shall be depicted on the plans submitted for construction permits.
15. No advertising signage or identifying logos shall be displayed on the telecom facility except for small identification, address, warning, and similar information plates. A detail of the information plates depicting the language on the plate shall be included in the plans submitted for issuance of building permits.
16. The telecom facility shall not be lighted except as deemed necessary by the Newport Beach Police Department for security lighting. The night lighting shall be at the lowest intensity necessary for that purpose and such lighting shall be shielded so that direct rays do not shine on nearby properties. Prior to the final of building permits, the Applicant shall schedule an evening inspection by the Code Enforcement Division to confirm compliance with this condition.
17. At all times, the operator for T-Mobile shall ensure that its telecom facility complies with the most current regulatory, operations standards, and radio frequency emissions standards adopted by the FCC. The operator shall be responsible for obtaining and maintaining the most current information from the FCC regarding allowable radio frequency emissions and all other applicable regulations and standards. Said information shall be made available by the operator upon request at the discretion of the Community Development Director.
18. Prior to final of building permits, the Applicant shall schedule an inspection by the Planning Division to ensure materials and colors match existing architecture as

illustrated in the approved photographic simulations and in conformance with Municipal Code Section 21.49.050.

19. 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 Applicant, current property owner, or leasing agent.
20. The Applicant shall ensure that lessee or other user(s) shall comply with the terms and conditions of this permit, and shall be responsible for the failure of any lessee or other users under the control of the Applicant to comply.
21. Any operator who intends to abandon or discontinue use of a telecom facility must notify the Planning Division by certified mail no less than thirty (30) days prior to such action. The operator or property owner shall have ninety (90) days from the date of abandonment or discontinuance to reactivate use of the facility, transfer the rights to use the facility to another operator, or remove the telecom facility and restore the site.
22. The City reserves the right and jurisdiction to review and modify any permit approved pursuant to NBMC Chapter 21.49, including the conditions of approval, based on changed circumstances. The operator shall notify the Planning Division of any proposal to change the height or size of the facility; increase the size, shape, or number of antennas; change the facility's color or materials or location on the site; or increase the signal output above the maximum permissible exposure ("MPE") limits imposed by the radio frequency emissions guidelines of the FCC. Any changed circumstance shall require the operator to apply for a modification of the original telecom permit and obtain the modified telecom permit prior to implementing any change.
23. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
24. This Coastal Development Permit does not authorize any development seaward of the private property.
25. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
26. 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.
27. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

28. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
29. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
30. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
31. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
32. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
33. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
34. 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.
35. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
36. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
37. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

38. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
39. 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.
40. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
41. This Coastal Development Permit PA2022-0163 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.
42. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Bahia Corinthian Yacht Club Telecommunications Facility including, but not limited to Coastal Development Permit PA2022-0163**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works

43. An encroachment permit is required for any work in the City's easement areas.
44. An approved encroachment permit is required for all work activities within the public right-of-way.

RESOLUTION NO. ZA2023-042

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT FOR A NEW DETACHED ADU AND A MODIFICATION PERMIT FOR A NEW CARPORT TO DEVIATE FROM THE MINIMUM REQUIRED WIDTH LOCATED AT 1216 WEST BALBOA BOULEVARD (PA2022-088)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by 1216 West Balboa LLC, concerning property located at 1216 West Balboa Boulevard, requesting approval of a coastal development permit and modification permit.
2. The lot at 1216 West Balboa Boulevard is legally described as Lots 5 and 6, Block 112 of Tract No. 234.
3. The applicant requests a Coastal Development Permit to construct a 386-square-foot accessory dwelling unit (ADU) on an existing multi-unit residential property. The ADU would be detached from the primary multi-unit structure and elevated above a new two (2)-space carport. The new two (2)-space covered carport would replace two (2) existing uncovered parking spaces. The existing four (4)-car garage would also be converted to four (4) open carport spaces and one (1) additional tandem parking space would be added on-site. A modification permit is also requested to reduce the required parking space dimensions of the new two (2)-space carport from 20 feet deep by 20 feet wide to 20 feet deep by 18 feet wide (i.e. two (2) feet narrower). No other changes to the existing multi-unit structure are proposed.
4. The subject property is designated RT (Two Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two Unit Residential - (20.0 - 29.9 DU/AC)) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on June 15, 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 demolition and construction of up to three single-family residences in urbanized areas. The proposed project consists of the addition of a detached 386-square-foot accessory dwelling unit in conjunction with an existing multi-unit structure and therefore qualifies for this exemption.
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.

Coastal Development Permit

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 number of parking spaces.
 - a. The maximum floor area limitation is 850 square feet per ADU for a studio/one-bedroom unit. The proposed ADU will be approximately 386 square feet. The maximum floor area limit for the property is 10,320 square feet, and with the proposed 386-square-foot ADU, the total floor area would be 5,949 square feet. Therefore, the property is approximately 60 percent of the total floor area allowed by the NBMC.
 - b. The proposed development provides the minimum required setbacks, which are 0 feet along the rear property line abutting the alley and 4 feet along the side property line.
 - c. The highest point of the proposed ADU structure (including carport below) is 17 feet from established grade, which complies with the 18-foot maximum height limit identified in Section 20.48.200(F)(3)(c)(i) of the NBMC. Although recent revisions to the ADU development standards have been adopted in Title 20 of the NBMC, the corresponding updates in Title 21 are in process with the

California Coastal Commission, including an allowance for detached ADUs to reach 18 feet maximum. Based on direction received from California Coastal Commission staff, since State Law governing ADUs allows detached ADUs to reach 18 feet, the 18-foot height limit shall apply provided there are no impacts to coastal resources.

- d. The existing 7-unit multi-unit development includes four (4) enclosed garage spaces and two (2) uncovered parking spaces. The proposed ADU requires one additional parking space on-site.
 - i. The project replaces the existing two uncovered parking spaces that will be displaced by the new ADU. The two uncovered parking spaces will be redesigned as a two (2)-space carport below the ADU.
 - ii. The garage doors on the existing two-(2) car garages onsite (4 parking spaces total) that serve the existing multi-unit building will be removed to create open carports. The converted carports will include one additional tandem space at the back of the existing garage, which complies with the requirement to add one additional parking space on-site. Because the proposed carports are visible from the alley and not secured by a garage door, it increases the likelihood that the parking spaces will be used for the storage of vehicles and not for the storage of other items. Therefore, the proposed project will improve the parking conditions on site.
 - iii. The project also includes the installation of bike racks onsite to accommodate 8 bicycles, providing tenants the option for alternative modes of transportation.
 - iv. A modification permit is requested to deviate from the Title 20 standard width requirement for a new two-car carport below the ADU. For properties that are over 40 feet wide, Title 20 of the NBMC requires a minimum of 20 feet deep by 20 feet wide clear for two-(2) car parking. The proposed carport is 20 feet deep by 18 feet wide which is two (2) feet narrower than the minimum requirement. However, the 18-foot width would be acceptable if the lot was narrower, and has proven to be sufficient width to accommodate two vehicles. Lastly, Title 21, of the NBMC does not include minimum dimensions for parking spaces and no deviations to Title 21 standards are requested.

2. The neighborhood is predominantly developed with one- and two-story multi-unit residences. There are several multi-unit residential structures along West Balboa Boulevard, which are primarily one to two stories. Of the 11 properties in the block, 9 are multi-unit structures containing more than two dwelling units. The largest development includes 8 units, with the bulk of properties including 3 to 4 units. The properties behind the subject site are primarily duplexes and single-unit dwellings that consist of mainly two stories with a few one- and three-story structures. The proposed ADU is on the second story and would reach approximately 17 feet, where the existing

multi-unit structure on site is approximately 20 feet. The proposed ADU's design, bulk, and 2-story scale are consistent with the existing neighborhood pattern of development.

3. The property is in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
4. The property is located within 270 feet of coastal waters. A construction erosion control plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
5. The development is located on an inland property in a developed area approximately 270 feet from the bay. The project site is separated from the bay (the nearest body of water) by two rows of residential development and the West Bay Avenue right-of-way. The finished floor elevation of the first floor of the proposed structure is approximately 18 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the minimum 9.00-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the higher finished floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
6. New landscaping is not proposed nor required as part of this project. Any future landscaping would be required to comply with the NBMC.
7. 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 at Marina Park and is not visible from the site. The proposed ADU is located at the rear of the site along the alley and would not be visible from West Balboa Boulevard or 12th Street, as the existing multi-family structure obstructs views. Furthermore, the proposed ADU complies with all applicable Local Coastal Program (LCP) development standards and maintains a height and setback consistent with the existing neighborhood pattern of development.
8. The project does not contain any unique features that could degrade the visual quality of the coastal zone. The proposed ADU is approximately 2 feet lower than the existing roof of the multi-unit structure and the gross floor area would be approximately 60 percent of what is allowed by the NBMC, reducing the bulk and scale of the 386-square foot ADU. Although recent revisions to the ADU development standards have been adopted in Title 20 of the NBMC, the corresponding updates in Title 21 are in process with the California Coastal Commission, including an allowance for detached ADUs to reach 18 feet

maximum instead of the prior standard of 16 feet. In the interim, California Coastal Commission staff has provided direction stating that since State Law governing ADUs allows detached ADUs to reach 18 feet, the 18-foot height limit shall apply provided there are no impacts to coastal resources. Based on the small size of the unit (386 square feet where 850 square feet is allowed), scale of existing development onsite and in the vicinity, and compatibility with the existing rooflines (existing multi-unit structure is two feet higher than the proposed ADU), no impacts to coastal views are anticipated.

Finding:

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

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Section 21.30A.040 of the NBMC 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 creates one ADU in conjunction with an existing multi-family development. Section 21.48.200 of the NBMC (Accessory Dwelling Units) allows up to two detached ADUs on a parcel that is developed with a multi-family structure. Although the project will add one additional dwelling unit to the property, it is accessory to primary multi-unit structure and is a studio with limited occupancy (and associated demand on public access). The ADU also includes its own parking on-site, which would reduce the need to park on the street and avoids impacts to public parking availability.
2. The project site was previously located within a half (1/2) mile of a transit stop, however in February 2023, Orange County Transportation Authority (OCTA) terminated this section of the bus route. Where the project was previously exempt from parking, it now requires and includes one additional parking space for the ADU. Additionally, the new ADU and parking space is accessible via the alley in the rear of the property and would not result in any curb cuts or loss of parking. Thus, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
3. Vertical and Lateral access to the bay and beach is available approximately 200 feet from the site along 12th Street where there is a small access point. The project does not include any features that would obstruct access along these routes.

Modification Permit

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The majority of residential developments in the vicinity provide access to their garage or carport via the alley, consistent with the proposed project.
2. Other properties in the area are smaller in width and require garages or carports that are 17 feet 6 inches wide (for lots 30 wide or less) or 18 feet 6 inches wide (for lots between 30.1 and 39.99 feet wide), where the subject site (approx. 62 feet wide) requires a width of 20 feet (for lots 40 feet or greater). The proposed 18-foot-wide garage represents a minor 2-foot deviation that is similar in size to other parking spaces in the area, which demonstrates that an 18-foot width is sufficient for the parking of two vehicles.
3. The proposed two-car carport is located in the same location as the existing uncovered parking spaces.
4. The project will maintain and enhance existing on-site parking. Currently, on-site parking consists of four garage spaces and two uncovered spaces in the open area where the ADU will be constructed. The ADU is being constructed as an elevated unit to maintain the existing two parking spaces as tuck-under parking. The project also proposes to make the existing 4-car garage spaces more usable by (1) removing the garage doors (ensuring car usage as opposed to storage) and (2) eliminating the wall separating the two garages, which will create a larger garage space to more easily accommodate cars.
5. The proposed side-by-side parking width is consistent with prevailing parking space widths in the general vicinity. Many of the existing parking spaces for the surrounding single-unit and multi-unit homes do not comply with current standards and are considered existing non-conforming.

Finding:

- D. *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 Zoning Code requires that replacement parking spaces require a minimum of 20 feet in width (on a 40-foot-wide lot or greater) and 20 feet deep. The NBMC requires a four-foot side yard setback for the ADU and the carport walls. Excluding required supports for the carport and ADU above, there is only 18 feet of width remaining between the side setback and the existing multi-unit structure onsite. Therefore, because of the location of the existing building and side setback, a 20-foot garage width is not physically possible.

2. The granting of the Modification Permit is necessary to allow the construction of a new ADU with tuck under parking that replaces the existing two uncovered spaces. Additionally, the reduction in width is negligible in that it would still allow two vehicles to park inside.
3. The existing uncovered parking is also currently constrained in width because of the existing electrical panel structure located on the northern wall of the existing structure, which projects into the yard approximately 2 feet. That electrical panel structure and the associated electrical panels will be relocated.

Finding:

- E. 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. Due to the existing development onsite and lot dimensions, a detached ADU could not be constructed on the site without affecting existing on-site parking. The proposed parking area of the site is the only location to accommodate a detached ADU. Although the design of the proposed ADU will comply with all applicable Title 20 and 21 standards and State ADU requirements, the Title 20 standards related to side-by-side parking would preclude construction of the ADU. The purpose and intent of Zoning Code Chapter 20.40 (Off-Street Parking) is to provide sufficient off-street parking to serve on-site land uses, which in this case is the existing multi-unit structure and proposed ADU. The proposed project replaces two off-street parking spaces (uncovered) for a total of 7 parking spaces to serve the residential use whereas the existing design provides 6 parking spaces.
2. At the time of application filing, the project site was within a 1/2 mile of public transit. Under the existing NBMC provisions governing ADUs, parking would not have been required for the ADU. However, OCTA eliminated the extension of Line 47 down Balboa Boulevard in March 2023. The project site is now just outside of the 1/2-mile walking distance from the closest Line 47 stop. The project was revised to add one additional parking space onsite, therefore a two-car carport is proposed in lieu of a one-car carport that would have previously been sufficient.

Finding:

- F. 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.*

Facts in Support of Finding:

1. Increasing the width of the carport to 20 feet would require the building to encroach 2 feet into the required side setback of 4 feet. Review and approval of a variance would be required to allow this deviation. Furthermore, relief from the Title 21 setback development standards would also be required to implement this alternative. The deviation to the setback requirement may impact the adjacent neighbors and may result in Building Code or Fire Code conflicts.
2. The applicant could shift the carport two feet towards the existing garage and multi-unit structure to accommodate the additional width. However, that would result in a reduction in width of the existing garages onsite which would not improve the parking conditions.

Finding:

- G. *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. The proposed deviation for the two-car garage, would not impact light, air, and privacy of surrounding neighbors. The new ADU and two-car carport will be consistent in scale with other dwellings in the neighborhood.
2. The proposed project would comply with all other development standards such as height, setbacks, and maximum floor area.
3. The proposed project maintains the minimum 3-foot side yard for fire access in accordance with Zoning Code Section 20.30.110 (Setbacks Regulations and Exceptions), Subsection A(1)(c).
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes. The Building Division has reviewed the proposed project and included a condition of approval for demonstration of project compliance with Building Codes.
5. The project provides additional parking for the ADU and maintains existing parking for the primary multi-unit dwellings, which will ensure that the ADU occupant does not require the use of on-street parking spaces. Thus, no impacts to coastal resources will result from providing a reduced width of on-site parking.

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 and the exceptions to this exemption do not apply.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit and Modification Permit (PA2022-088), 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 15TH DAY OF JUNE, 2023.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a building permit, the accessory dwelling unit (ADU) shall require a deed restriction that prohibits separate sale of the ADU and prohibits rental or leasing of the ADU for 30 days or less.
3. All parking spaces shall remain clear and free obstructions for the parking of vehicles. No storage (except for the parking of vehicles) is allowed within the required parking spaces.
4. The existing garage doors on both two-(2) car garages onsite shall be removed to create open carports. The converted carports shall include and maintain one additional tandem space at the back of the existing garage. The interior wall of the garages shall also be removed the extent feasible to increase the interior clear space for the parking of vehicles.
5. The project shall install and maintain bike rack(s) for the storage of at least 8 bicycles.
6. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way.
7. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property including, but not limited to, the adjacent alley.
8. Prior to the issuance of building permits, the applicant shall submit a construction management plan, reviewed and approved by the Public Works Department and Planning Division, demonstrating the applicant will have sufficient access to the site during construction and will not impact public access. Said plan shall also indicate areas for the storage of construction equipment and materials.
9. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds pursuant to MBTA:

-
- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
- B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
10. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
11. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
12. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
13. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
14. Revisions to the approved plans may require an amendment to this CDP and/or Modification Permit or the processing of a new CDP and/or Modification Permit.
15. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
16. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.

18. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
19. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
20. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
21. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
22. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
23. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
24. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

Location	Between the hours of 7 AM and 10 PM		Between the hours of 10 PM and 7 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

25. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
26. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current

property owner or agent.

27. This Coastal Development Permit and Modification Permit filed as PA2022-088 shall expire unless exercised within 24 months from the date of approval as specified in Sections 20.54.060 and 21.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
28. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of 1216 West Balboa LLC Accessory Dwelling Unit including, but not limited to, the Coastal Development Permit and Modification Permit filed as PA2022-088. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

29. Prior to building permit issuance, a soils report shall be provided.
30. The proposed stairs shall be a minimum of 36 inches clear for access (i.e. 36 inches wide) with an exception for allowable handrail projection.
31. The enclosed space under the exterior stairs shall be 1-hour rated construction.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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949-644-3200
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ZONING ADMINISTRATOR ACTION LETTER

Subject: Pavilions Temporary Refrigerated Trailers (PA2023-0099)
▪ Limited Term Permit

Site Location 3100 Balboa Boulevard

Applicant Pavilions Grocery Store

Legal Description Parcel 1, Block 371, Page 4

On **June 15, 2023**, the Zoning Administrator approved a Limited Term Permit (Less than 90 days) to allow the temporary placement of one 25-foot-long electric produce refrigeration trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock at the rear of the Pavilions Grocery Store within The Landing Shopping Center. The trailers' refrigeration units will only operate between 7 a.m. and 9 p.m., daily, to store ice and produce for an eight-day period (June 29, 2023, through July 6, 2023). The applicant will incorporate a noise reduction plan that includes sound barrier blankets on the backside of both trailers. The property is in the CN (Commercial Neighborhood) Zoning District. This approval is based on the following analysis and findings and is subject to all conditions of approval listed thereafter.

I. LAND USE AND ZONING

- **General Plan Land Use Plan Category:** CN (Neighborhood Commercial)
- **Zoning District:** CN (Commercial Neighborhood)
- **Coastal Land Use Plan Category:** CN (Neighborhood Commercial – 0.0 to 0.30 FAR)
- **Coastal Zoning District:** CN (Commercial Neighborhood)

II. FINDINGS

Finding:

- A. *This project has been reviewed, and it has been determined that it is categorically exempt from the requirements of the California Environmental Quality Act under Class 11 (Accessory Structures);*

Fact in Support of Finding:

1. Class 11 exempts the placement of seasonal or temporary use of items such as lifeguard towers, mobile food units, portable restrooms, or similar items. The

proposed temporary trailers will be placed within the rear of the shopping center for a limited time and will be ancillary to an existing commercial development.

Finding:

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

Facts in Support of Finding:

1. The Limited Term Permit will allow two (2) temporary electric refrigeration trailers to store ice and produce on-site for eight days during the Independence Day holiday weekend, beginning on June 29, 2023.
2. Condition of Approval No. 8 requires sound blankets to be applied to the trailers to help reduce the noise of electric refrigeration units. Condition of Approval No. 7 limits operation of the electric refrigeration units to between the hours of 7 a.m. and 9 p.m., daily. These operational conditions will help to reduce the possibility of excess noise to surrounding residents.
3. Condition of Approval No. 3 requires the location of the trailer within and adjacent to the loading dock area, which is approximately 100 feet from the nearest residence and will be partially screened by existing trees and landscaping along 30th Street. The generators will be oriented to face away from nearby residents.
4. Electric refrigeration trailers have been used at the subject property on holiday weekends during similar hours in the past and the use has not proven detrimental.

Finding:

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

Facts in Support of Finding:

1. The subject lot is approximately 3.75 acres in size. Based upon the site plan and the past temporary placement of trailers, there is adequate area without impacting vehicle circulation. The ice trailer will be located adjacent to the loading dock and will occupy two required parking spaces for a limited, eight-day duration.
2. The lot is bounded by Balboa Boulevard to the west, Newport Boulevard to the east, 32nd Street to the north, and 30th Street to the south. The adjacent right-of-way (30th Street) separates the lot from nearby residential properties within the R-2 (Two-Unit

Residential) Zoning District. A public parking lot is located directly across 30th Street, adjacent to where the trailer will be parked.

Finding:

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

Facts in Support of Finding:

1. The subject lot has four direct driveway approaches along Newport Boulevard, 32nd Street, Balboa Boulevard, and 30th Street. The 40-foot-long ice trailer that is adjacent to the loading dock will not impede access to and around the loading dock at the rear of the grocery store. The ice trailer will occupy two required parking stalls for a limited, eight-day duration. The 25-foot-long produce trailer's location within the loading dock will still allow for deliveries within the other half of the loading dock during the eight-day duration and will not impede any parking spaces. No traffic or site circulation issues are anticipated.
2. The produce trailer will be located within the loading dock and will not generate additional traffic or impede access.
3. The limited duration use is for two temporary electric refrigeration trailers for the grocery store to store ice and produce during the holiday weekends when significant demand is anticipated.

Finding:

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

Fact in Support of Finding:

1. The proposed limited duration use will not create additional parking demand since the two trailers will be used to store ice and produce for the grocery store. The two parking spaces that the ice trailer will occupy will not have a detrimental effect on parking demand within the shopping center since these spaces are typically underused due to their location at the rear loading dock area. The public will not have direct access to the temporary electric refrigeration trailers.

Finding:

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

Facts in Support of Finding:

1. The General Plan land use category for this site is Neighborhood Commercial (CN). The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation.
2. The site is in the Commercial Neighborhood (CN) Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs of and maintain compatibility with residential uses in the immediate area. The proposed trailers are ancillary to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CN designation. The CN zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The site is located in the Neighborhood Commercial (CN) land use category of the Coastal Land Use Plan and is within the Neighborhood Commercial (CN) Coastal Zoning District. The CN designation is intended to provide for a range of retail and service uses developed in one or more distinct centers oriented to serve the needs and maintain compatibility with residential uses in the immediate area. Table 21.20-1 of the NBMC indicates that temporary uses and accessory structures are allowed within the CN Coastal Zoning District. As the project is the temporary placement of one 25-foot-long electric produce refrigeration trailer within the loading dock and one 40-foot-long electric ice trailer adjacent to the loading dock, it is exempt from obtaining a coastal development permit consistent with Section 21.52.035 (Projects Exempt from Coastal Development Permit Requirements) of the Newport Beach Municipal Code (NBMC). The project's operation is not within a sensitive area and is not expected to be detrimental to any coastal resources, including access and views.
4. The site is not located within a specific plan area.

III. CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The temporary electric refrigeration trailers shall be located within the rear loading dock and adjacent to the rear loading dock area as shown on the site plan (Attachment No. ZA 3). The generator on the ice trailer shall face away from the nearby residences and shall be oriented southeast toward 3011 Newport Boulevard.

4. The temporary electric refrigeration trailers shall be limited to the storage of ice and produce for the grocery store. Alcohol and other store merchandise shall not be stored within the temporary trailer.
5. The 40-foot temporary electric refrigeration trailer for ice is permitted on-site for an eight-day duration from June 29, 2023 through July 6, 2023. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
6. The 25-foot temporary electric refrigeration trailer for produce is permitted on-site for an eight-day duration from June 29, 2023 through July 6, 2023. Storage of a trailer or trailers on-site other than the dates specified is prohibited.
7. Operation of the refrigeration units within the temporary trailers shall be limited to the hours of 7 a.m. to 9 p.m., daily. If the hours of operation are not adhered to, the applicant shall be subject to fines in accordance with Newport Beach Municipal Code (NBMC) Chapter 1.05.020 (Authority and Administrative Citation Fines). Fines may reflect the maximum amount, as authorized by the City Manager or his/her designee.
8. The refrigeration trailers shall comply with the noise standards of Chapter 10.26 (Community Noise Control) of the NBMC. The maximum noise generated by the proposed use shall not exceed a noise level equal to the value of the noise standard plus 20 DBA for any period of time, as measured using A-weighted slow response. Sound barrier materials (blankets) shall be installed at all times to inhibit the noise. The Code Enforcement Officer may require additional sound testing and attenuation at his/her discretion to comply with the noise standards of the Municipal Code.
9. The applicant shall provide a 24-hour contact number for emergencies, complaints, or concerns to Code Enforcement and interested parties upon request during the time period the trailers are authorized.
10. The applicant shall identify an individual whose job it is to shut down the generator on or before 9 p.m. each evening. This person's name shall be provided to the City of Newport Beach Police Department Watch Commander via email each day that the generator is in operation.
11. The generators on each temporary electric refrigeration trailer shall be set back 20 feet from the rear property line along 30th Street and 5 feet from any adjacent structures.
12. The temporary trailers shall not restrict vehicle circulation, truck access to the loading dock, or the public right-of-way at the rear of the grocery store.
13. Access for emergency vehicles must be maintained around the temporary trailer within the parking area. A minimum clearance of 14 feet is required adjacent to the trailer. Twenty feet of clearance is required in all other areas of the required fire access roadway around Pavilions Grocery Store.

14. The trailers shall not block any firefighting equipment such as fire hydrants, standpipe connections, or fire department connections.
15. The refrigeration trailers must be registered by the Department of Motor Vehicles (DMV) to be exempt from requirements for building permits.
16. An electrical permit and proper grounding and bonding shall be required if power is used elsewhere than the generator on the trailers.
17. The Limited Term Permit is for the operation of two temporary electric refrigeration trailers on-site for the hours and dates specified and does not authorize the use or operation of additional storage trailers on-site.
18. Should the temporary refrigeration trailers become a detriment to the public health, comfort, convenience, safety, and general welfare of the peace and quiet of the neighboring properties and their inhabitants, this permit may be revoked.
19. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Pavilions Temporary Refrigerated Trailers including, but not limited to, Limited Term Permit (PA2023-0099)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

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. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



Oscar Orozco
Assistant Planner



Benjamin M. Zieba, AICP, Zoning Administrator

Attachments: ZA 1 Vicinity Map
ZA 2 Description Letter
ZA 3 Site Plan

Attachment No. ZA 1

Vicinity Map

VICINITY MAP



Limited Term Permit
(PA2023-0099)

3100 Balboa Boulevard

Attachment No. ZA 2

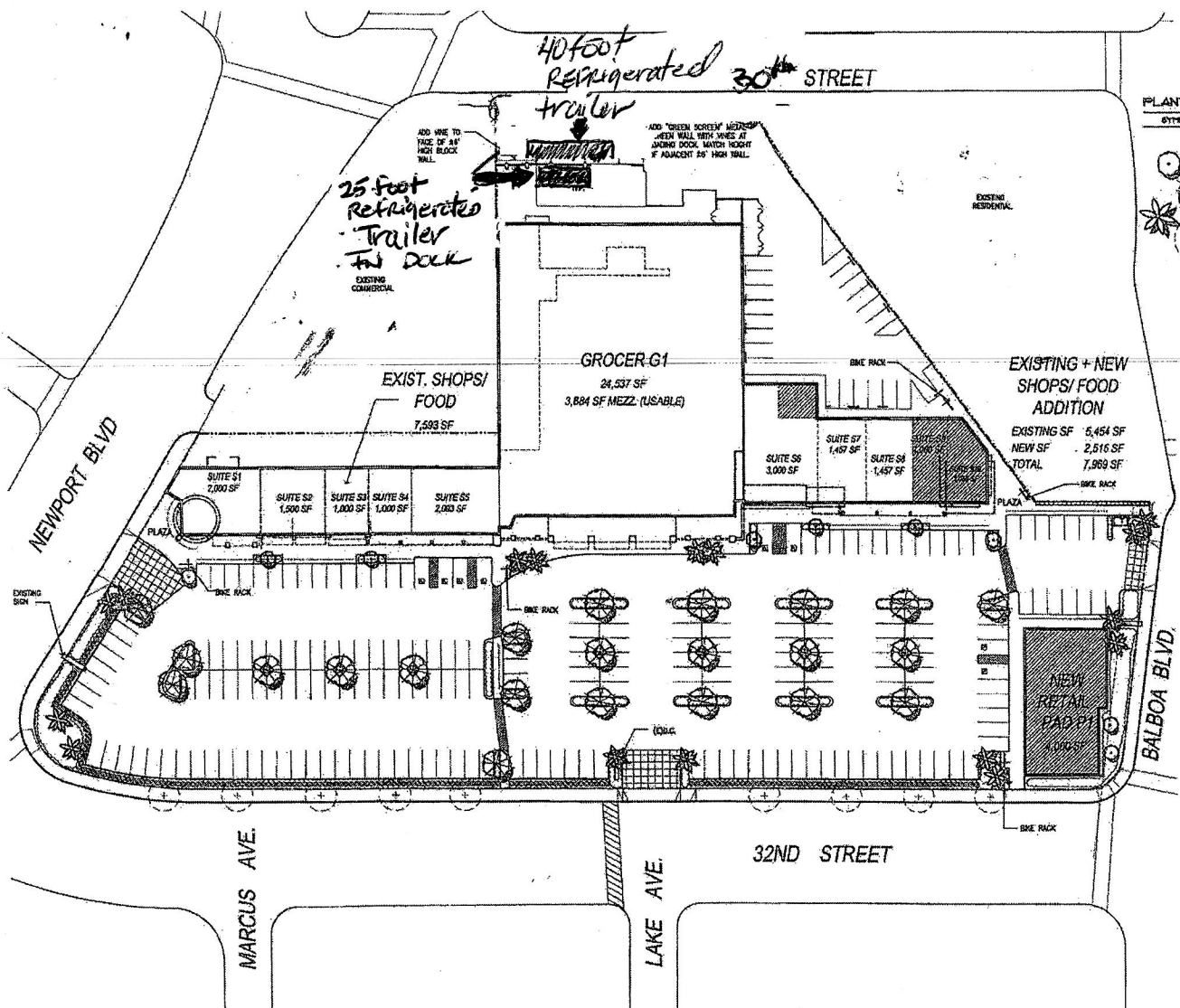
Project Description Letter

3.

To allow a 40 foot trailer to store ice for a 9-day period, from June 28th- July 6^h, adjacent to the loading dock at the rear of the Pavilions Grocery store located at the Landing Shopping Center. This trailer is needed to facilitate the additional sales of ice that accompanies the Independence Day Holiday period. The refrigeration space inside the store is not sufficient for the amount of ice needed to fulfill the customer needs. The second refrigerated trailer will be in the dock area, to store needed produce- fruits, vegetables, guacamole and fresh made products to maintain proper food safety temperatures on product for consumers. I am arranging this year for a noise reduction plan (cover for back side of trailers) on both trailers when they arrive, to reduce noise while trailers are running between 7am and 9pm, to comply with curfew restrictions. The placement of the trailers can be seen on the attached documents.

Attachment No. ZA 3

Site Plan



PLANTING LEGEND

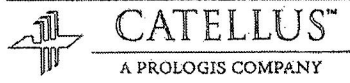
SYMBOL	BOTANICAL NAME	COMMON NAME	SIZE	REMARKS / UICOLS III
TREES				
	ERIODOTYA JAPONICA	NON-FRITING LOGLIAT	24" BOX	NATURAL DOUBLE STAKE M
	RHUS LANCEA	AFRICAN SUMAC	24" BOX	STANDARDS DOUBLE STAKE L
	WASHINGTONIA ROBUSTA	MEXICAN FAN PALM	30" MIN. BROOK TRUNK HEIGHT	L
	EXISTING STREET TREES	PROTECT IN PLACE		VERIFY IN FIELD
SHRUBS AND GROUNDCOVERS				
	LIGUSTRUM J. JAPONICUM	TEXAS PRIVET	3 GAL. / 5 GAL.	3'-0" OC. M
	BOUGAINVILLEA SPP.	BOUGAINVILLEA	5 GAL.	4'-0" OC. L
	CALLISTEMON LUTEO-ROSEUS	DISCOP BOTTLEBRUSH	5 GAL.	3'-0" OC. L
	LANTANA SPREADING SUNSHINER	NGN	1 GAL.	3'-0" OC. L
	ROSA FLORIBUNDA ICEBERG	ICEBERG ROSE	5 GAL.	36" OC. M
	RHOISAPHYSS OFFINALIS TREE	NGN	1 GAL.	24" OC. L
	MYRSINE MELALEUCA	MY GERANIUM	4" POT	0" OC. M
	JANCOZANTHOS FLAVUS	RED KANGAROO PAW	5 GAL.	3'-0" OC. M
	FICUS OVINA GLAUCA	BLUE FIGURE	4" POT	8" OC. L
	HEMEROCALLIS HYBRID	EVERGREEN DAYLILY	1 GAL.	18" OC. M
	NASSELLA TENUISETA	MEXICAN FEATHERGRASS	1 GAL.	12" OC. L
	PHLOX PANICULATA YELLOW WAVE	YELLOW WAVE PHLOX	5 GAL.	3'-0" OC. M
VINE				
	TRACHELOSPERMUM JASMINOIDES	STAR JASMINE	5 GAL.	SPRAY ON WALL AND GREEN SCREEN

NOTES

- ALL PLANT, SHRUB AND GROUNDCOVER AREAS TO BE TOP DRESSED WITH 2" LAYER OF FINE SBRONDED REDWOOD BARK MULCH. ALL SLOPE AREAS 24" OR GREATER TO BE TOP DRESSED WITH 4" LAYER OF FINE SBRONDED REDWOOD BARK MULCH. ALL TOP DRESSINGS TO BE INSTALLED TO TOP OF BALK.
- ALL STREET TREES AND ALL TREES WITHIN 5' OF HARDSCAPE ELEMENTS, SUCH AS CURBS, WALLS, BUILDINGS OR BALDS, SHALL BE PROVIDED WITH APPROVED ROOT BARRIER CONTROL. DIVISIONS SUCH AS FENCE INCLUDE 4'-6" AVAILABLE FROM DEEPER FOOT AND 4'-6" TAPS OR WELDS/PROTECTIONS. INSTALLATION TO BE PER MANUFACTURER'S RECOMMENDATIONS AND BE A MINIMUM OF 18" LABIAL FEET.
- CONTRACTOR TO REPAIR OR REPLACE ANY EXISTING WORK DONE BY OTHERS DAMAGED DUE TO CONSTRUCTION.
- A POST GRADING GEOTECHNICAL SOIL ANALYSIS IS REQUIRED. CONTRACTOR TO Amend SOIL IN ACCORDANCE WITH SOIL REPORT RECOMMENDATIONS.
- CONTRACTOR TO VERIFY ALL UTILITIES AND EXISTING CONDITIONS IN FIELD PRIOR TO CONSTRUCTION.
- ALL PLANTING TO BE IRRIGATED WITH LOW VOLUME SPRAY HEADS OR BUBBLERS CONNECTED AUTOMATIC IRRIGATION CONTROL TO VALVES AND TIED INTO A CENTRAL AUTOMATIC CONTROLLER.
- ALL PLANTING AND IRRIGATION TO COMPLY WITH CITY OF NEWPORT BEACH LANDSCAPE GUIDELINES.

BALBOA CENTER NEWPORT BEACH, CA

PRELIMINARY PLANTING PLAN



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PA2014 for XP2014-002
3100 B. Boulevard
Pavilions Grocery Store

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