



## CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER, AND PLANNING COMMISSION  
FROM: Seimone Jurjis, Assistant City Manager/Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator, and/or Community Development Director for the week ending November 17, 2023.

---

### ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS NOVEMBER 16, 2023

Item 1: Harmon Residence Coastal Development Permit (PA2022-130)  
Site Address: 3405 and 3405 ½ Seashore Drive

Action: Approved by Resolution No. ZA2023-067	Council District	1
---	------------------	---

Item 2: Mariman Residence Coastal Development Permit (PA2023-0118)  
Site Address: 54 Linda Isle

Action: Approved by Resolution No. ZA2023-068	Council District	5
---	------------------	---

Item 3: Lewis Residence Coastal Development Permit (PA2023-0151)  
Site Address: 212 Tremont Drive

Action: Approved by Resolution No. ZA2023-069	Council District	4
---	------------------	---

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. ZA2023-067

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING TWO-UNIT RESIDENCE AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT DWELLING AND JUNIOR ACCESSORY DWELLING UNIT (JADU) AND ATTACHED TWO-CAR GARAGE LOCATED AT 3405 AND 3405 ½ SEASHORE DRIVE (PA2022-130)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by David Olson, concerning property located at 3405 and 3405 ½ Seashore Drive and legally described as Lot 3 of Block 34 of Newport Beach Tract, requesting approval of a coastal development permit.
2. The applicant requests a coastal development permit (CDP) to allow for the demolition of an existing two-story, two-unit dwelling with attached garages, and construction of a new 3,221-square-foot, three-story, single unit dwelling including a 381 square foot JADU and a 426-square-foot two-car garage. The project includes hardscape, drainage, and accessory structures all within the confines of the property. The project is located in the VE Special Flood Hazard Area ("VE Zone"), and includes a raised foundation supported by caissons to meet the minimum finished floor requirements of the Special Flood Hazard Area. The project complies with all development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property.
3. 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.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E Two Unit Residential – (30.0-39.9 DU/AC) and it is located within the R-2 (Two-Unit Residential) Coastal Zone District.
5. A public hearing was held on November 16, 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 of up to three (3) single-family residences and construction of up to six dwelling units in urbanized areas. The proposed project consists of the demolition of one two-family residence and the construction of a new 3,221-square-foot, single-family residence and JADU, with an attached 426-square-foot, two-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed development complies with the applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 3,688 square feet and the proposed floor area is 3,653 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line abutting the Boardwalk, 3 feet along each side property line, and 0 feet along the second front property line abutting Seashore Drive.
  - c. The highest guardrail is less than 24 feet from the established grade (17.5 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements. Pursuant to Section 21.30.060 (B) (Height Limits and Exceptions – Height of Structures and Measurement) of the NBMC, the minimum required top of slab elevation for interior living areas of all new development within flood hazard areas shall be as established by the Flood Insurance Rate Maps recognized by the Building Division as part of flood safety requirements and maps adopted by the City Council. The subject property is located in the VE-15 Flood Zone and the minimum top of slab elevation is required to be a minimum of 17.5 feet NAVD88. Pursuant to 21.30.060 (B) (Height Limits and Exceptions – Height of Structures and Measurement), the

height of a principal structure shall be measured from the top of slab elevation. Therefore, the established grade for the subject property is 17.5 feet NAVD88, and the maximum elevation allowed for a guardrail or flat roof is 41.5 feet NAVD88 and 46.5 feet NAVD88 for a sloping roof (minimum 3:12 pitch).

- d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area. No additional parking is required for JADUs.
2. The neighborhood is predominantly developed with two and three-story, single-unit residences. The project would be constructed with a finished floor that is approximately 5 feet above the existing beach elevation and the overall height of the structure will appear higher than neighboring properties. However, as the other 165 properties along the beach from 24<sup>th</sup> Street to 48<sup>th</sup> Street redevelop, they will also be required to comply with the VE Flood Zone construction standards that necessitate raised foundations on caissons. Several other projects have been approved with raised foundations along Seashore Drive. Therefore, the proposed design, bulk, and scale of the development are consistent with the anticipated neighborhood pattern of development.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated June 10, 2022, for the project. The report concludes that the project will be reasonably safe from wave overtopping and future sea level rise. The estimates assume an approximate 3.2-foot increase from sea level rise over the next 75 years (i.e. the life of the structure). The maximum water elevation is 7.7 feet (NAVD88), therefore the future sea level is estimated to reach approximately 10.9 feet (NAVD88) (the likely range for sea level rise over 75-year design life of the structure based on low risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update). The finished floor elevation of the first floor of the proposed structure is approximately 17.5 feet (NAVD88), which complies with the minimum 9.0-foot (NAVD88) elevation standard for new structures and exceeds the minimum requirements for future sea level rise (10.9 feet NAVD88).
4. The Coastal Hazards Report and Sea Level Rise Analysis also evaluates the potential for shoreline erosion and wave action at the site. The report concludes that future wave runup will likely not reach the site under severely eroded beach conditions and extreme storms. The report states that this section of Newport Beach does experience short term erosion, but that the erosion is temporary and largely the result of an energetic winter. The report concludes that the sandy beach in front of the property is typically over 250 feet wide and has provided adequate protection for the property over the last several decades. The proposed development will not need shoreline protection over the life of the development.
5. Prior to the issuance of a building permit, the project would be reviewed for compliance with building code and FEMA standards. The VE Flood Zone mapped for the site requires a base flood elevation (BFE) of 15 feet NAVD88, and the City requires an additional one foot of "freeboard" to the bottom of the lowest horizontal structural member. Therefore, the project has been designed with a raised finished floor of

approximately 17.25 feet (NAVD88). The residential structure is also required to have a pile foundation. Although unlikely to occur at the project site over the life of the development, the structure has been designed to withstand potential wave action in compliance with the FEMA VE Flood Zone standards and the associated requirements of the NBMC.

6. Under NBMC Section 21.30.030(C)(3)(i)(iv) (Development Standards – Protective Structures), 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.
7. 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) (Waterfront Development – Development Standards). This requirement is included as a condition of approval that will need to be satisfied before the issuance of building permits, respectively.
8. 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.
9. The property is located within 250 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 from construction chemicals and materials. The project design also addresses water quality through the inclusion of a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
10. Proposed landscaping complies with Implementation Plan Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
11. The project proposes to demolish the existing duplex and construct a new single-unit dwelling 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 a JADU is considered a housing unit under Government Code Section 66300 provisions to replace existing units. The property owner has certified that the units are not "protected" units under Section 66330 Subdivision

(d)(2). The project is consistent with the General Plan, Local Coastal Program, and Zoning designations that allow the single-unit dwelling and JADU land uses. Under the Coastal Land Use Plan Table 2.1.1-1, the Two Unit Residential (RT-E) category is intended for single- and two-unit residential development. Section 21.18.020 of the Local Coastal Program Implementation Plan shows “Single-Unit Dwellings” and “Accessory Dwelling Units” as allowed uses in the R-2 Coastal Zoning District. Therefore, the project of a single-unit dwelling and JADU to replace an existing duplex is consistent with the R-2 zoning and land use designations, does not result in a loss of residential density, and will not affect the City in meeting its regional housing needs.

12. The project site is not located adjacent to a coastal view road or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest Coastal Viewpoint is on Newport Island approximately 1,200 feet away and is not visible from the site. The site is located adjacent to Seashore Drive, which serves as lateral access and provides intermittent views of the beach where it intersects with street ends. As currently developed, the existing property and other residences along Seashore Drive impede views of the ocean from Seashore Drive and provide very limited opportunities to see the beach through narrow side yard setbacks. The subject lot is located in the middle of the block, and existing views of the beach are available along the 35<sup>th</sup> and 34<sup>th</sup> Street ends. The proposed project would not block any existing views through the project site. Additionally, the proposed single-unit dwelling and JADU comply with all applicable Local Coastal Program (LCP) development standards and maintains a building footprint consistent with the anticipated neighborhood pattern of development in the VE Flood Zone.
13. Additionally, the rear of the residence visible from Seashore Drive includes substantial architectural treatment and visual interest, in-keeping with the design guidelines of the NBMC, specifically Section 21.30.100 (Scenic and Visual Quality Protection). The existing structure includes minimal architectural treatment, with a relatively solid building face and garage doors. There are no notable architectural features, or setbacks or “see through” elements that reduce scale. The project design also includes “see through” elements such as open balcony railings that prevent the appearance of the site being walled off from the street. Lastly, the first floor is also setback approximately 6 feet from Seashore Drive, where no setback is required, reducing the appearance of bulk from the street. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.
14. The project site is located in the viewshed of the public beach, which is not a designated viewpoint but provides scenic views of the ocean. The project will replace an existing two (2)-unit dwelling with a new single-unit dwelling and JADU that complies with all applicable development standards. The required front setback along the front property line abutting the boardwalk is 5 feet, where the proposed project provides approximately 12 feet to the first-floor building face. The project also includes a patio slightly above the ground that provides a gradual increase in scale from the boardwalk to the approximately 3-foot-deep balcony and principal structure. The project proposes a third-floor level, which is set back approximately 20 feet from the front setback along the boardwalk where the NBMC requires 15 feet. The greater setbacks would minimize the appearance of bulk and scale from the adjacent beach, neighboring properties, and street. The project would be constructed with a finished floor that is approximately 5 feet

above the existing beach elevation and the overall height of the structure will appear higher than neighboring properties. However, as the other 165 properties along the beach from 24<sup>th</sup> Street to 48<sup>th</sup> street redevelop, they will also be required to comply with the VE Flood Zone construction standards that necessitate raised foundations on caissons. 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.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. Implementation Plan Section 21.30A.040 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 two-unit dwelling located on a standard R-2 lot with a new single-unit residence and JADU. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical access to the beach is available at the 34<sup>th</sup> and 35<sup>th</sup> Street ends. Lateral access is available on the beach in front of the property and along Seashore Drive to the rear of the property. The project does not involve the removal or creation of additional street parking spaces. The project design does not include any unique features in the rear of the property that could obstruct access or create hazards for the motorists or pedestrians on Seashore Drive. The first-floor garage is setback approximately 6 feet from the property line, which would allow the residents additional visibility to the bike lane and street as they enter and exit the garage.

SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit (PA2022-130), 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 16<sup>TH</sup> DAY OF NOVEMBER, 2023.**



---

Benjamin M. Zieba, AICP, Zoning Administrator



**EXHIBIT "A"****CONDITIONS OF APPROVAL**

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

trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
8. 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.
  9. 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.
  10. 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.
  11. 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.
  12. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
  13. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
  14. 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.

15. 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.
16. *Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
17. *Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
18. *Prior to the 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.*
19. *Prior to the issuance of a building permit, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
20. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
21. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
22. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) 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

23. Before the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
24. 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.
25. This Coastal Development Permit filed as PA2022-130 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.
26. 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 **Harmon Residence including but not limited to, Coastal Development Permit (PA2022-130)**. 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.

## RESOLUTION NO. ZA2023-068

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW TWO-STORY SINGLE-UNIT DWELLING AND ATTACHED TWO-CAR GARAGE LOCATED AT 54 LINDA ISLE (PA2023-0118)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Andrew Heerman of Laidlaw Schultz Architects, concerning property located at 54 Linda Isle and legally described as Lot 54 of Tract No. 4003, requesting approval of a coastal development permit.
2. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-unit dwelling and construction of a new 3,991 square-foot two-story single-unit dwelling and an attached 712 square-foot two-car garage. The project includes raising the bulkhead. The project also includes landscaping, hardscaping, and site walls. The project complies with all applicable development standards and no deviations are requested.
3. The subject property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-B) (6.0 – 9.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. A public hearing was held on November 16, 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, construction, or conversion of up to three single-family residences in urbanized areas. The proposed project consists of the demolition of an existing single-unit dwelling and construction of a new 3,991 square-foot two-story single-

unit dwelling and an attached 712 square-foot two-car garage. The project also includes raising the existing bulkhead.

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 NMBC, the following findings, and facts in support of such findings are set forth:

#### Finding:

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

#### Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
  - a. The maximum floor area limitation is 6,584 square feet and the proposed floor area is 4,698 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting the Newport Bay, 4 feet along each side property line, and 25 feet along the other front property line abutting the Linda Isle private drive.
  - c. The highest guardrail is less than 24 feet from the established grade (9.52 feet NAVD88) and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
  - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-unit dwellings with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-unit dwellings. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
3. The development fronts Newport Bay and is protected by a bulkhead. A Bulkhead Condition Report was prepared by GeoSoils, Inc. dated May 17, 2023, for the project. The report concluded that an augmented site bulkhead is needed to conform with the City's minimum bulkhead elevation requirement for new development. Although the

condition of the existing bulkhead tie-back and deadman anchor system cannot be verified in the report, it concluded that there are no indications of distress to the bulkhead and its components.

4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc. dated May 17, 2023. The maximum bay water elevation is 7.7 feet NAVD 88 (North American Vertical Datum of 1988 (NAVD 88)) and may exceed the current top of bulkhead elevation of 9.1 feet (NAVD 88) during high tide or storm events. The report analyzes future sea level rise scenarios assuming a 3.2-foot increase in the maximum water level over the next 75 years (i.e., the life of the structure). Therefore, the sea level is estimated to reach approximately 10.9 feet NAVD 88 (the likely range for sea level rise over the 75-year design life of the structure based on low-risk aversion estimates for sea level rise provided by the State of California, Sea Level Rise Guidance: 2018 Update).
5. On March 23, 2021, the City Council approved updated Waterfront Project Design Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities. The guidelines require that any bulkhead structure permitted within the years 2021 through 2025 must have a minimum bulkhead elevation of 10.9 feet (NAVD 88) with a design for adaptability elevation of 14.4 feet (NAVD 88). The project has been conditioned to raise the bulkhead to an elevation of 10.9 feet (NAVD 88). GeoSoils, Inc. has confirmed the bulkhead design can be raised up to 14.4 feet (NAVD 88) if needed and in compliance with the updated guidelines.
6. The finished floor elevation of the proposed single-unit dwelling is 10.9 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
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. The property is located adjacent to coastal waters. Under Section 21.35.030 (Construction Pollution Prevention Plan) of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been provided and construction plans and activities will be required to adhere to the CPPP.
9. Under Municipal Code Section 21.35.050 (Water Quality and Hydrology Plan), due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a preliminary Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQMP has been prepared for the project by Toal Engineering, Inc dated, June 12, 2023. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, the use of a LID approach to retain the design storm runoff volume on-site, and documentation of the expected

effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP before building permit issuance.

10. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
11. The closest designated Public Viewpoint is located approximately 1,100 feet to the east of the property near the intersection of Bayside Drive and Harbor Island Drive. Additionally, the proposed residence is located to the south of Coast Highway and to the west of Bayside Drive, which are both Coastal View Roads as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the Public Viewpoint and Coastal View Roads as well as the intervening development, the project will not be visible from the aforementioned locations and will not result in impacts to coastal views.
12. As a bayfront property, the north elevation of the new development will be visible from the water. The design complies with all required setbacks which minimizes the appearance of building bulk, and the design uses architectural treatments which will enhance views from the water. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts on 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.*

Fact in Support of Finding:

1. Linda Isle is a private, 107-lot, single-family residential community created in the 1960's and the existing home on-site was developed in 1973. The community predates the California Coastal Act and does not provide public access to the bay or shore. A gated bridge connects the island to the mainland at Bayside Drive. The island has a recreational tennis court, clubhouse, and sandy beach area in the northwestern portion of the island on Linda Isle for residents of the community. While Bayside Drive is the first public road paralleling the sea or shoreline and the project site is located between Bayside Drive and the Harbor, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-unit dwelling located on standard R-1 lot with a new single-unit dwelling. 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.



SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit (PA2023-0118), 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 16<sup>TH</sup> DAY OF NOVEMBER, 2023.**



---

Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Prior to the final building permits, 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.*
3. *Prior to the final 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 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 the City's approval of the development. This letter shall be scanned into the plan set before building permit issuance.*
4. *Fences, hedges, walls, and guardrails within required setbacks shall comply with the height requirements pursuant to Section 21.30.040 (Fences, Hedges, Wall, and Retaining Walls) of the NBMC. Prior to building permit issuance, plans shall be updated to demonstrate compliance with this section.*
5. This approval does not authorize any new or existing improvements (including landscaping) on California Coastal Permit Jurisdiction, State tidelands, public beaches, or the public right-of-way. Any improvements located on tidelands, submerged lands, and/or lands that may be subject to the public trust shall require a coastal development permit (CDP) approved by the California Coastal Commission (Coastal Commission). Before the issuance of building permits, the applicant shall provide a copy of said coastal development permit or CDP waiver or documentation from the Coastal Commission that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the Coastal Commission.
6. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.

7. This Coastal Development Permit does not authorize any development seaward of the private property.
8. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:
  - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
  - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
9. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
10. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
11. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
12. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
14. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.

15. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
16. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
17. *Prior to 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.*
18. *Prior to 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.*
19. *Prior to issuance of building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
20. *Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
21. *Prior to issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
22. All landscape materials and irrigation systems shall be maintained by the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
23. Construction activities shall comply with Section 10.28.040 (Construction Activity – Noise Regulations) of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. 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 (Community Noise Control) 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

25. Before the issuance of the building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
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 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
28. To the fullest extent permitted by law, 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 **Mariman Residence including but not limited to, Coastal Development Permit (PA2023-0118)**. 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.

## RESOLUTION NO. ZA2023-069

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO REMOVE AN EXISTING SINGLE-FAMILY MANUFACTURED HOME AND INSTALL A NEW SINGLE-STORY, SINGLE-FAMILY MANUFACTURED HOME LOCATED AT 212 TREMONT DRIVE (PA2023-0151).**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steve Almquist (“Applicant”) on behalf of Tom Lewis (“Manufactured Home Owner”), with respect to property located at 212 Tremont Drive, legally described as Parcel 1 of Resub division No. 0995 (Parcel Map No. 93-111), requesting approval of a Coastal Development Permit.
2. The Applicant proposes the removal of an existing single-story, single-family manufactured home and the installation of a new single-story, single-family manufactured home. The development also includes a driveway, patio, walkways, and entry stairs. The development complies with all applicable Municipal Code Standards and no deviations are requested.
3. The subject property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Bayside Village Mobile Home Park (PC-1) Zoning District.
4. The subject site is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential – 10.0 – 19.9 DU/AC (RM-C) and it is located within the Bayside Village Mobile Home Park (PC-1) Coastal Zone District.
5. A public hearing was held on November 16 2023, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by, the Zoning Administrator at this hearing.

#### SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations 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 single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the removal of an existing single-family manufactured home and installation of a new single-family manufactured home.

### SECTION 3. REQUIRED FINDINGS.

In accordance with NBMC Section 21.52.015(F) (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. The proposed development complies with applicable development standards identified by the PC-1 Development Plan and the proposed design is in substantial conformance with the approved site plan.
  - a. The project is within the confines of the manufactured home site lines.
  - b. The project includes a parking area for one vehicle, complying with the minimum parking requirement per site.
2. The Bayside Village Mobile Home Park is predominantly developed with single- and two-story, mobile/manufactured homes. The proposed design, bulk, and scale of the development is consistent with the existing pattern of development and expected future development consistent with applicable development standards.
3. The Bayside Village Mobile Home Park is comprised of Parcel 1 (south) and Parcel 2 (north) of Parcel Map No. 93-111. The project site is centrally located within the south parcel, surrounded by other homes, and is more than 600 feet from Newport Bay. The project site is at an approximate elevation of 15 feet based on the North American Vertical Datum of 1988 (NAVD 88).
4. The project design addresses water quality with a construction erosion control plan and a post-construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
5. The building codes for the construction and installation of a manufactured home are contained within the California Health and Safety Code. The State of California Department of Housing and Community Development ("HCD") issues all construction permits. The applicant has provided evidence of approval from the State.

Finding:

- B. *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, and the existing residential development neither provides nor inhibits public coastal access. NBMC Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family manufactured home within an existing mobile/manufactured home park with a new single-family manufactured home. Therefore, the project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreational opportunities.
2. Bayside Drive bisects the northern and southern parcels of the Bayside Village Mobile Home Park and provides access to the Newport Dunes, which houses several coastal recreational opportunities for the public's use.
3. The mobile/manufactured home park abuts Coast Highway, a public coastal view road. It is separated from the public right-of-way by an existing site wall that is approximately 7 feet tall and provides limited views across. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family manufactured home with a new single-family manufactured home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing 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 on public views.

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

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit (PA2023-0151), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community



Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

**PASSED, APPROVED, AND ADOPTED THIS 16<sup>TH</sup> DAY OF NOVEMBER, 2023.**



---

Benjamin M. Zueba, AICP, Zoning Administrator

**EXHIBIT "A"****CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. 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 results in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands, or their buffers.
3. 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 Pollution Prevention Plan (CPPP).
4. Prior to the issuance of a building permit, the property owner shall sign 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. The letter shall be scanned into the plan set prior to building permit issuance.
5. 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.
6. 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.
7. 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.
8. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.

9. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
10. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
11. 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.
12. 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.
13. 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.
14. This Coastal Development Permit No. PA2023-0151 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions) unless an extension is otherwise granted.
15. To the fullest extent permitted by law, the Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs, and expenses (including without limitation, attorney's fees, disbursements, and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Lewis Residence including, but not limited to, Coastal Development Permit (PA2023-0151)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing the such proceeding. The Applicant shall indemnify the City for all the City's costs, attorneys' fees, and damages, which the City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.