



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 December 15, 2023.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS DECEMBER 14, 2023

- Item 1: Social Pies Restaurant Minor Use Permit (PA2023-0112)
Site Address: 106 Main Street
- | | | |
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| Action: Approved by Resolution No. ZA2023-074 | Council District | 1 |
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- Item 2: Azelart Residence Lot Merger (PA2023-0168)
Site Address: 2319 Heather Lane
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| Action: Approved by Resolution No. ZA2023-075 | Council District | 3 |
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- Item 3: Andry Residence Coastal Development Permit (PA2023-0150)
Site Address: 31 Beacon Bay
- | | | |
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| Action: Approved by Resolution No. ZA2023-076 | Council District | 5 |
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- Item 4: Mendes Residence Coastal Development Permit (PA2023-0025)
Site Address: 208 Via Lido Nord
- | | | |
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| Action: Approved by Resolution No. ZA2023-077 | Council District | 1 |
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- Item 5: Griley Residence Coastal Development Permit and Tentative Parcel Map (PA2023-0125)
Site Address: 2592 Arbor Drive and 2596 Crestview Drive
- | | | |
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| Action: Approved by Resolution No. ZA2023-078 | Council District | 2 |
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**COMMUNITY DEVELOPMENT DIRECTOR
OR ZONING ADMINISTRATOR ACTIONS**
(Non-Hearing Items)

Item 1: Boone Residence Substantial Conformance Staff Approval (PA2023-0215)
Site Address: 408 Via Lido Nord

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.

Wendy Joe, Civilian Investigator, NBPD (*Telecom - Massage – ABC License*)
Mark Short, Police Sergeant, NBPD (*Massage – ABC License*)

RESOLUTION NO. ZA2023-074

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A MINOR USE PERMIT TO UPGRADE A TYPE 41 (ON-SALE BEER AND WINE – EATING PLACE) ALCOHOLIC BEVERAGE CONTROL (ABC) LICENSE TO A TYPE 47 (ON-SALE GENERAL – EATING PLACE) ABC LICENSE FOR A FOOD SERVICE, EATING AND DRINKING ESTABLISHMENT LOCATED AT 106 MAIN STREET (PA2023-0112)

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 L. Nola, Esq. of Vice Legal, concerning property located at 106 Main Street, and legally described as Parcel 1 of Parcel Map 130-50 recorded in Book 4, Page 11, of Miscellaneous Maps (Property) requesting approval of a minor use permit.
2. The Applicant has requested a minor use permit to allow a food service, eating and drinking establishment to upgrade a Type 41 (On-Sale Beer and Wine – Eating Place) Alcoholic Beverage Control (ABC) license to a Type 47 (On-Sale General – Eating Place) ABC license. Additionally, a minor interior remodel is proposed that includes the addition of a bar top with seating on the first floor of the restaurant. There is no new floor area, change to net public area, or late hours (after 11:00 p.m.) proposed. If approved, this minor use permit will supersede existing Use Permit No. UP1865. (Project).
3. The Property is categorized as Mixed Use Vertical (MU-V) by the Land Use Element of the General Plan and is located within the Mixed Use Vertical (MU-V) with a Parking Management (PM) Overlay District designation.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Vertical (MU-V) and is located within the Mixed-Use Vertical (MU-V) Coastal Zoning District with a Parking Management (PM) Overlay District designation. As the Project does not add new floor area or increase parking demand, the Project is not an intensification of use and does not require a coastal development permit.
5. A public hearing was held on December 14, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with California Government Code Section 54950 et seq. (Ralph M. Brown Act) and Chapter 20.62 (Public Hearings) of 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) under Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. Class 1 consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use. The proposed Project involves additional menu offerings and alterations to the interior floor plan of an existing restaurant space with no expansion in floor area. There is no intensification in use.

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales

In accordance with Section 20.48.030 (Alcohol Sales) of the NBMC, the Zoning Administrator shall consider the following findings prior to the approval of a new or amended alcohol sales establishment:

Finding

- A. *The use is consistent with the purpose and intent of NBMC Section 20.48.030 (Alcohol Sales).*

Facts in Support of Finding

In finding that the Project is consistent with Section 20.48.030 (Alcohol Sales) of the NBMC, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 - a) The subject Property is in an area the Newport Beach Police Department (NBPD) designates as Reporting District (RD) 12. RD 12 is located on the Balboa Peninsula and stretches from the intersection of 7th Street and West Balboa Boulevard to the intersection of B Street and East Balboa Boulevard. The RD is abutted to the north by the harbor and to the south by the Pacific Ocean. Surrounding RD's include RD 22 to the north, RD 11 to the east, and RD 13 to the west with RD 15 beyond. RD 12 is a mix of both residential and nonresidential uses.
 - b) The NBPD is required to report offenses of Part One Crimes combined with all arrests for other crimes, both felonies, and misdemeanors (except traffic citations) to the California Department of Alcoholic Beverage Control (ABC). Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report: criminal homicide,

rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson. The RD 12 Part One Crime count for 2022 is 136, which is 35% above the citywide average of 101 crimes per RD.

- c) The NBPd has reviewed the Project and has no objection to the new Type 47 ABC license, subject to appropriate conditions of approval which have been incorporated into Exhibit "A" of this Resolution. These conditions include provisions such as the requirement that all owners, managers, and employees selling alcoholic beverages undergo and complete a certified training program in responsible methods and skills for selling alcoholic beverages, a prohibition on the restaurant from operating as a bar, tavern, cocktail lounge or nightclub, a prohibition on reduced price alcohol promotions, and the requirement that any substantial operational change require a subsequent review.

ii. The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.

- a. In 2022, RD 12 had a higher percentage of alcohol-related crimes than neighboring RD 11 but had a lower percentage of alcohol related crime than both neighboring RD 13 and RD 15. The higher number of alcohol-related crimes in the subject RD compared to RD 11 is expected given that RD 11 is almost exclusively residential. RD 12, RD 13, and RD 15 include many restaurants and some bars. RD 13 and RD 15 had alcohol-related crimes 281% higher and 805% higher, respectively, than the Citywide average. In comparison, RD 12 does not exhibit a higher number of alcohol related calls for services, crimes, or arrests than two of the three adjacent RDs.
- b. RD 12 had 2,753 dispatch events in 2022 which is higher than 1,227 dispatch events of RD 11 but lower than the 4,674 dispatch events of RD 13 and the 8,707 dispatch events of RD 15.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

- a. The surrounding area is developed with a variety of uses. The Project site is approximately 100 feet away from both Peninsula Park and the Balboa Pier. The nearest residential zoning district is immediately adjacent to the Project site, to the rear. The nearest school, Newport Elementary, is over 6,000 feet to the west and the nearest place of worship, Christ Church by the Sea, is also over 6,000 feet away to the west. The Balboa Fun Zone, where minors are present, is located approximately 300 feet to the northwest. While minors will be present within the vicinity of the Project, the Project does not have late hours or feature live entertainment to otherwise attract minors.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

- a. There are several active On-Sale ABC Licenses within the general vicinity of the subject Property with the largest concentration at the Balboa Pier area. Most of the On-Sale Licenses are for either restaurants including Type 41 (On-Sale Beer and Wine - Eating Place) and Type 47(On-Sale General - Eating Place) or charter boats with a Type 54 – (On-Sale General Boat) License. Notable restaurants with ABC Licenses include Ruby’s Diner, Cabo Cantina, Cruisers, and Great Mex Grill. There are two active Type 48 (On Sale General - Public Premises) ABC Licenses within the general vicinity (Balboa Saloon and Class of 47) and one active Type 02 (Winegrower) ABC License that allows for onsite wine tasting (Balboa Wines).
- b. There are five active Off-Sale Licenses within the general vicinity of the subject Property:

License Type	Address	Distance from Subject Property
Type 20 (Off-Sale Beer and Wine)	814 Bay Ave	867 feet
Type 20 (Off-Sale Beer and Wine)	406 S Bay Front	1,540 feet
Type 21 (Off-Sale General)	510 E Balboa Boulevard	175 feet
Type 20 (Off-Sale Beer and Wine)	508 W Balboa Boulevard	1,800 feet
Type 21 (Off-Sale General)	500 S Bay Front	1,520 feet

- c. While this location meets the Business and Professions code section §23958.4 criteria for undue concentration pertaining to ABC licenses, the Project’s proximity to other establishments selling alcohol do not raise concern due to the operational characteristics of the proposed Project. The restaurant does not have late hours of operation, is prohibited as operating as a bar or tavern, and is prohibited from offering games or contests involving the consumption of alcoholic beverages. If it is determined that the operation of the restaurant is to the detriment of the public health, welfare, or injurious to Property, Condition of Approval No. 7 allows the Zoning Administrator to modify or revoke the MUP.

vi. *Whether or not the proposed amendment will resolve any current objectionable conditions.*

- a. There were three police dispatch events in 2022 to the 106 Main Street vicinity. The subject Property had three dispatch events in 2022 and one arrest. The arrest was not alcohol related and the subject Property received no alcohol citations.
- b. There are no objectionable conditions presently occurring at the Property.

Minor Use Permit

In accordance with Section 20.52.020(F) (Findings and Decision) of the NBMC, the following findings and facts in support of such findings for a use permit are set forth:

Finding

B. The use is consistent with the General Plan and any applicable specific plan.

Facts in Support of Finding:

1. The subject Property is located within the Balboa Village area of the Balboa Peninsula. Balboa Village is the historic center for recreational and social activities on the Peninsula.
2. The Land Use Element of the General Plan categorizes the Project site as Mixed Use Vertical (MU-V). The MU-V designation is intended to provide areas for the development of properties with mixed-use structures that vertically integrate housing with retail uses including retail, office, restaurant, and similar nonresidential uses. While there are no residential units within the existing building, standalone nonresidential buildings are permitted by the MU-V land use designation.
3. General Plan Land Use Policy LU 5.3.5 (Pedestrian-Oriented Architecture and Streetscapes) encourages designs to define the public realm, activate sidewalks and pedestrian paths, and provide “eyes on the street”. The existing building abuts the public sidewalk on Main Street with no setback. The exterior of the front façade will be repainted and refreshed which will enhance the building. This improvement should improve the pedestrian experience along the public sidewalk which leads to the Balboa Pier.
4. General Plan Land Use Policy LU 6.8.7 (Property Improvement) encourages the City provide incentives and work with Property owners to improve their properties as well as to achieve the community’s vision for the Balboa Peninsula. The proposed Project will revitalize a currently vacant restaurant space in a busy visitor-serving area within Balboa Village. The Project will also improve the building by providing required disabled access upgrades.
5. The subject Property is not a part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The subject Property is zoned Mixed Use Vertical (MU-V). Pursuant to Table 2-8 of Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the NBMC, restaurants with alcohol service are allowed in the MU-V District subject to the approval of an MUP. Table 21.22-1 of NBMC Section 21.22.020 (Mixed-Use Coastal Zoning Districts Land Uses and Permit Requirements) also indicates that restaurants with alcohol service are allowed.

2. The subject Property provides no on-site parking. As the Project only adds additional menu options and does not add additional floor area nor does it intensify the use, no additional parking is required. The nearest municipal parking lot for restaurant patrons is located 200 feet to the south, at the Balboa Municipal Lot.
3. The subject Property is located within the Balboa Village Parking Management (PM) Overlay District. This overlay allows for a variety of nonresidential uses, including restaurants, to operate without providing onsite parking. The overlay requires that properties maintain off-street parking however the project site provides no off-street parking.

Finding:

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

Facts in Support of Finding

1. The Project site operated as a pizza restaurant, beginning in 1976 with the approval of UP1865, before closing in 2019. The Project is a new pizza restaurant with additional alcoholic beverage options, which is compatible with the surrounding commercial uses.
2. The surrounding vicinity is characterized by residential, commercial, and visitor-serving uses. The Oceanfront Boardwalk, Balboa Pier, and the Balboa Municipal Lot are located within proximity of the Project site. The neighborhood sees considerable visitor traffic by vehicle, by bicycle, and on foot and is very busy and vibrant. The restaurant will likely serve residents and visitors already within the area and is not anticipated to generate significant additional traffic or congestion.
3. The Project does not include late hours which may otherwise be disruptive to the residential Property to the rear. Condition of Approval No. 4 limits the hours of operation from 11 a.m. to 10 p.m. Sunday through Thursday and 11 a.m. to 11 p.m., Friday and Saturday. Any change to open the restaurant earlier or close later will require subsequent review by the Planning Division and may require an amendment to the minor use permit.
4. Condition of Approval No. 20 prohibits deliveries and refuse collection for the facility between the hours of 10 p.m. and 7 a.m. on weekdays and Saturdays and between the hours of 10 p.m. and 9 a.m. on Sundays and Federal holidays. This limitation should help minimize disturbance to the surrounding residential uses.

Finding:

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

Facts in Support of Finding

1. The Property is improved with an existing two-story commercial building within a developed neighborhood and has been adequately served by existing emergency services and utilities. Access to the subject Property is provided by Main Street, from the alley on the northern side of the Property, and the Oceanfront Boardwalk.
2. A trash area is provided on-site, behind the building. Condition of Approval No. 5 requires that the trash area be upgraded to the minimum standards provided in 20.30.120 (Solid Waste and Recyclable Materials Storage).
3. The proposed Project was reviewed by relevant City departments including the Building Division, Public Works Department, Fire/Life Safety Services and the NPBD. Comments have been incorporated into the Project through design and conditions of approval.
Project

Finding

- F. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

Facts in Support of Finding

1. The tenant space has sat empty since before the COVID-19 pandemic. The proposed Project will help revitalize the 100 block of Main Street with tenant improvements to the space and the establishment of a new restaurant to serve visitors and residents in the surrounding area.
2. The exterior of the property was recently damaged by a structure fire at 104 Main Street. The exterior of the building will be repainted which will enhance the experience of visitors to the area.
3. Although there are residential units to the rear of the Property, the restaurant is oriented toward Main Street, which provides direct access to the space for patrons. The proposed use is not anticipated to be detrimental, especially with the Conditions of Approval included in Exhibit "A" which appropriately restrict the operational characteristics.
4. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance within the facility, adjacent properties, or surrounding public areas, sidewalks, or parking lots of the store.
5. The Project includes conditions of approval to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible and no impacts to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood are expected.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Minor Use Permit (PA2023-0112), subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the NBMC.
4. This Resolution supersedes Use Permit No. UP1865. Upon vesting of the rights authorized by this use permit, UP1865 shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 14TH DAY OF DECEMBER, 2023.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved 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. The Project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused the revocation of this minor use permit.
4. *The hours of operation shall be limited to 11 a.m. to 10 p.m. Sunday through Thursday and 11 a.m. to 11 p.m., Friday and Saturday.*
5. *The existing trash storage area shall be upgraded to comply with the minimum standards provided in 20.30.120 (Solid Waste and Recyclable Materials Storage).*
6. All proposed signs shall be in conformance with the provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
7. This minor use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
8. Any change in operational characteristics, expansion in the area, or other modification to the approved plans, shall require subsequent review by the Planning Division and may require an amendment to this minor use permit or the processing of a new minor use permit.
9. 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.
10. Prior to the 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 minor use permit 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 minor use permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, in the opinion of the Director of Community Development, the illumination creates an unacceptable negative impact on surrounding land uses or environmental resources. The Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
12. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
13. 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

14. Should the Property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, Property owner or leasing agent.
15. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
16. No outside paging system shall be utilized in conjunction with this establishment.
17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public Property or right-of-way.
18. The exterior of the business shall be always maintained free of litter and graffiti. The owner or operator shall provide for daily removal of trash, litter debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.

19. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
20. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. on weekdays and Saturdays and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays unless otherwise approved by the Director of Community Development and may require an amendment to this minor use permit.
21. Storage outside of the building in the front or at the rear of the Property shall be prohibited, except for the required trash container enclosure.
22. A Special Events Permit is required for any event or promotional activity outside the normal operating characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
23. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
24. 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 **Social Pies Restaurant including, but not limited to, a minor use permit (PA2023-0112)**. 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.

Fire Department

25. *A-2 Occupancies with occupants on the second floor shall require fire sprinklers.*

Building Division

26. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required before the issuance of a building permit.

Police Department

27. *The ABC License shall be limited to a Type 47 (On-Sale General – Eating Place). Any substantial change to the ABC license type shall require subsequent review and potential amendment of the minor use permit.*
28. *The Applicant shall abide by all requirements and conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use is a violation and may be cause for revocation of the minor use permit.*
29. *All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible beverage service within 60 days of hire. The certified program must meet the standards of the State of California. Records of each owner's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.*
30. *The restaurant shall not operate as a bar, tavern, cocktail lounge, or nightclub as defined by the NBMC.*
31. *The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.*
32. *No alcoholic beverages shall be consumed on any Property adjacent to the licensed premises under control of the licensee.*
33. *Live entertainment shall be prohibited.*
34. *Dancing by patrons, as defined in Section 5.32.010 of the NBMC, shall be prohibited.*
35. *No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.*

36. *Reduced price alcoholic beverage promotions after 9:00 p.m. shall be prohibited.*
37. *Food service from the regular menu shall be made available to patrons until closing.*
38. *Petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.*
39. *Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person based upon money collected as a door charge, cover charge or any other form of admission charge shall be prohibited.*
40. *"VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks shall be prohibited (excluding charges for prix fixe meals).*
41. *Strict adherence to maximum occupancy limits is required.*
42. *There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.*

RESOLUTION NO. ZA2023-075

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LOT MERGER FOR TWO LOTS UNDER COMMON OWNERSHIP BOTH LOCATED AT 2319 HEATHER LANE (PA2023-0168)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Oscar Almendarez, with respect to the property at 2319 Heather Lane. The property is legally described as Lot 36 of Tract No. 3138, Newport Beach. The parcel to be merged to the north has no site address and is legally described as Southeasterly ½ of Tustin Avenue (60 feet in width) adjoining lot 36 of Tract No. 3138.
2. The Applicant proposes a lot merger and requests to waive the parcel map requirement for two lots under common ownership. The merger would combine the two legal lots into a single parcel.
3. The subject properties are located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RSD).
4. The subject property at 2319 Heather Land is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (0.0 – 5.9 DU/AC) (RSD-A) and the Coastal Zoning District is Single-Unit Residential (R-1). The parcel with Assessor Parcel Number 119-321-52 is not located in the coastal zone. The Lot Merger application does not include nor proposes any change in the density or intensity of land use and is therefore not considered development as defined in Newport Beach Municipal Code (NBMC) Chapter 21.70 (Definitions). For this reason, a coastal development permit is not required.
5. A public hearing was held on December 14, 2023, online via Zoom. A notice of time, place, and purpose of the hearing was given in accordance with 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 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, 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 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 years; and the parcel does not have an average slope greater than 20%. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

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, and is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The lot merger will not result in the creation of additional parcels by removing the interior lot line between them.
2. The lot merger is consistent with the purpose and intent of NBMC Title 19 (Subdivisions), identified in NBMC Subsection 19.04.020 (Purpose and Applicability). The lot merger will ensure all development is contained within the property and there is no construction crossing legal property lines.
3. The future development on the proposed parcel will be subject to NBMC Title 20 (Planning and Zoning), which is intended to promote orderly development, protect neighborhood character, and preserve public health, safety, and general welfare of the City.

Finding:

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

Fact in Support of Finding:

1. The two lots to be merged are under common fee ownership, as evidenced by the Preliminary Title Report submitted with the application.

Finding:

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

Facts in Support of Finding:

1. The merged parcel will retain the Single-Unit Residential (R-1) zoning designation, consistent with the surrounding area. The R-1 Zoning District is intended to provide areas appropriate for a detached single-family residential dwelling unit located on a single lot that is 5,000 square feet or greater in area.
2. The Land Use Element of the General Plan designates the subject site as Single Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units.
3. The Coastal Land Use Plan designates the site at 2319 Heather Lane as Single Unit Residential Detached (0.0-5.9 DU/AC) (RSD-A), which provides for density ranging from 0.0-5.9 dwelling units per acre. The single-family residential land use will remain the same and the merger is consistent with the land use designations of the General Plan and Coastal Land Use Plan.
4. Section 20.18.030 (Residential Zoning Districts General Development Standards) of the Zoning Code establishes minimum lot area and width requirements. The proposed merger would result in an approximately 11,258-square-foot parcel that is in conformance to the minimum 5,000-square-foot interior lot area standard of the Zoning Code. The proposed merger would create approximately one 85-foot wide parcel, exceeding the 50-foot minimum width Zoning Code standard.
5. The subject property is not located within a specific plan area.

Finding:

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

Fact in Support of Finding:

1. No adjoining parcels will be deprived of legal access as a result of the merger. The existing northerly parcel is landlocked. Legal access from the merged parcels is provided from Heather Lane and will remain unchanged.

Finding:

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

Facts in Support of Finding:

1. Any future development on the merged lots will be required to meet all applicable development standards and, therefore, will not significantly deviate from the pattern of development of adjacent and/or adjoining lots in a manner that would result in an unreasonable detriment to the use and enjoyment of other properties.
2. The proposed lot merger will create a parcel that is consistent with the character or general orientation of adjacent and/or adjoining lots. Although the current configuration is two lots, the property is used as a single parcel with one single-family residence. As a result, the proposed merger will not result in a visible change in the character of the neighborhood and will continue to allow the property to be used for single-family purposes.
3. The proposed lot merger will create a parcel similar in size and configuration to those in the vicinity and neighborhood, and which conforms to the minimum lot width and area standards for the zoning district. See Fact in Support of Finding C (4) above.

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

Finding:

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

Facts in Support of Finding:

1. Approval of the proposed lot merger would remove the existing interior lot line, and allow the property to be used as a single site. The proposed lot would comply with all design standards and improvements required for new subdivisions by NBMC Title 19 (Subdivisions), the General Plan, and the Coastal Land Use Plan.
2. The subject property is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project 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 PA2023-0168, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated for reference.
3. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 (Subdivisions), of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 14TH DAY OF DECEMBER 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 lot merger exhibits stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this lot merger.
4. *Prior to the issuance of building permits, for any construction to cross the existing interior lot line between the two lots proposed to be merged, recordation of the Lot Merger documents with the County Recorder shall be required.*
5. All easements shall be plotted, and all easement documents provided upon final map review.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
7. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
8. 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 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 **Azelart Residence Lot Merger, PA2023-0168**. 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, attorney's fees, and damages that the City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City

upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2023-076

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 SINGLE-UNIT DWELLING WITH AN ATTACHED TWO-CAR GARAGE AND ACCESSORY DWELLING UNIT AT 31 BEACON BAY (PA2023-0150)

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 Dilettoso of Mesa Studio (“Applicant”), on behalf of Donte Andry (“Owner”), with respect to property located at 31 Beacon Bay, requesting approval of a coastal development permit.
2. The property is legally described as Parcel 31, of Record of Survey RS_009_42-43 (“Property”).
3. The Applicant is requesting a coastal development permit (CDP) to allow the demolition of an existing two-story residential single unit dwelling and the construction of a new 3,662 square foot three-story residential dwelling unit with a 649 square-foot attached garage, and a 703 square foot attached Accessory Dwelling Unit. The project includes a total of 5,014 square feet of gross floor area. The project complies with all applicable development standards and no deviations are requested. The proposed development includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping. All improvements authorized by this CDP will be located on private property.
4. The subject property is designated Two Unit Residential (RT) by the General Plan Land Use Element and is located within the Two-Unit Residential (R-2) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (RT-C) (10.0 – 19.9 DU/AC) and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
6. A public hearing was held on December 14, 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 residence and the construction of a new three-story 4,311 square foot single-unit residence with an attached two-car garage and an attached 703 square foot ADU.
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 project complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
2. The maximum floor area limitation is 6,105 square feet and the proposed floor area is approximately 5,014 square feet.
3. The proposed project provides the minimum required setbacks, which are 5 feet along the front property line abutting Schooner Road, 4 feet along each side property line, and 10 feet along the property line abutting Reef Cove.
4. The highest guardrail is less than 24 feet from the established grade (10.33 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 (D)(6) (Height Limits and Exceptions – Exceptions to Height Limits) and Condition of Approval No. 2, the project design shall be revised to provide an elevator that complies with the maximum height of 29 feet (for elevators 30 square feet or less).
5. The project includes a new 649 square foot garage for the parking 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. The attached ADU does not require additional parking, as the property is located within ½-mile of public transportation.

6. The neighborhood is predominantly developed with two-story, single-unit dwellings. However, some of the newer residences have a rooftop deck and a partial third story. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
7. The finished floor elevation of the proposed single-unit dwelling is 11.06 feet (NAVD 88) which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
8. The property is approximately 261 feet from Promontory Bay and is separated from the bayfront by Harbor Island Drive and three rows of existing residential development. The identified distances from the coastal hazard areas coupled with the 11.06-foot NAVD88 finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
9. The property is in an area known for the potential of seismic activity and liquefaction. A project-specific Geotechnical Investigation was prepared by R McCarthy Consulting dated August 15th, 2023, and provides recommendations relative to grading, drainage and foundation design. 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 a building permit. Permit issuance is also contingent on the inclusion of design recommendations identified in the investigations. Construction plans are reviewed for compliance with the recommendations and the CBC before building permit issuance.
10. The property is not located on the shoreline nor is it located within 100 feet of coastal waters. 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. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
11. The nearest Public Viewpoint is located in the parking lot of 829 Harbor Island Drive approximately 950 feet south of the property, with views of the entrance to the Harbor and Balboa Island. The proposed residence is not located near Coastal View Roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the identified Public Viewpoints, orientation of views from the viewpoint, and the project's compliance with height and setbacks, the project will not impact existing coastal 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 single-unit residence located on a standard R-2 lot with a new single-unit residence and ADU. 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. The residential lot does not currently provide, nor does it inhibit public coastal access. The property is located approximately 411 feet from the public beach and vertical coastal access is provided along several streets ends within the neighborhood. The nearest vertical access point is located at the Reef Cove street-end. Lateral access is available via a public beach fronting Balboa Island Channel.

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 (PA2023-0150), 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 14TH DAY OF DECEMBER, 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 issuance of building permits, the project plans shall be revised to reduce the height of the elevator to comply with the height limits identified in 21.30.060 (Height Limits and Exceptions) of the NBMC.*
3. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter the sensitive habitat, receiving waters, or storm drains or result in impacts to environmentally sensitive habitat areas, streams, the beach, wetlands or their buffers. No demolition or construction materials shall be stored on public property.
4. The applicant is responsible for compliance with the Migratory Bird Treaty Act (MBTA). In compliance with the MBTA, grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of native birds under MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
5. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented before and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
10. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
12. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
13. *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.*
14. *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.*
15. *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.*
16. *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.*
17. 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.

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 to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
19. 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

20. 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.
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 **Andry Residence including but not limited to, Coastal Development Permit (PA2023-0150)**. 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. ZA2023-077

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 208 VIA LIDO NORD (PA2023-0025)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Olson Architects, concerning property located at 208 Via Lido Nord and legally described as lot 858 of Tract No. 907 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, 2,503-square-foot, two-story single-unit dwelling and an attached 422-square-foot two-car garage. The project includes reinforcement and raising of the existing 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-C) (10.0 – 19.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. A public hearing was held on December 14, 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 2,503-square-foot, two-story single-

unit dwelling and an attached 422-square-foot two-car garage. The project also includes reinforcement and raising of 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 3,648 square feet and the proposed floor area is 2,925 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting the Newport Bay, 3 feet along each side property line and 4 feet along the property line abutting Via Lido Nord.
 - c. The highest guardrail is 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which comply 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. A Coastal Hazards Report and bulkhead conditions report was prepared by PMA Consulting, INC. on January 24, 2023. The report concludes that the highest high tide elevation (currently 7.70 feet North American Vertical Datum of 1988 [NAVD 88]) will not exceed 10.8 feet (NAVD 88) using the low-risk aversion projected sea level rise (3.10-

foot increase) over the 75-year design life of the structure based on estimates for sea level rise provided by the State of California Sea-Level Rise Guidance 2018. The report states that the estimated sea level rise over the next 75 years, using the Medium-High Risk Aversion, is potentially 6.7 feet (14.4 feet NAVD 88). The finish floor elevation of the proposed dwelling is 11.50 feet (NAVD 88). The report concluded that the bulkhead should be repaired and reinforced through the installation of new tiebacks and new deadmen. The installation of the tiebacks and deadmen will occur after the demolition of the existing home is complete and prior to the construction of the new home. Once the bulkhead is reinforced in accordance with the enclosed drawings, no repair or replacement of the bulkhead is anticipated within the next 75 years.

4. The finished floor elevation of the proposed single-unit dwelling is 11.50 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement 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). 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). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. 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.
7. 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.
8. Pursuant to 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 Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by Core Civil Engineering, Inc., dated November 15, 2017, has been reviewed and approved by the City's Engineer Geologist the WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for best management practices (BMPs), use of a low-impact development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
9. 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.

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.

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. Informal (i.e., not designated by the Coastal Land Use Plan) vertical access to the bay front is available approximately 100 feet west of the site where there is a small public beach with access to the water.
2. The closest public viewpoint is located at the bridge to Lido Island approximately 900 feet away. The proposed residence is not located near coastal view roads, as designated in the Coastal Land Use Plan. Due to the distance of the proposed development from the public viewpoint and the project's compliance with height, setbacks, the project will not impact coastal views. The project may be located within the viewshed of other distant public viewing areas. Site evaluation revealed that the proposed two-story design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from the bridge at Lido Island. The project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program (LCP) 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.

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 (PA2023-0025), 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 14TH DAY OF DECEMBER, 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 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. 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.
5. 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.
6. This Coastal Development Permit does not authorize any development seaward of the private 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 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 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 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.*
19. *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.*
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 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 **Mendes Residence including but not limited to, Coastal Development Permit (PA2023-0025)**. 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.

Public Works Department

27. Prior to building permit final, the applicant shall install a new sewer cleanout on the existing sewer lateral per City Standard 406.

RESOLUTION NO. ZA2023-078

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING A COASTAL DEVELOPMENT PERMIT AND A TENTATIVE PARCEL MAP FOR THE DEMOLITION OF TWO EXISTING SINGLE-UNIT RESIDENCES AND CONSTRUCTION OF TWO NEW SINGLE-UNIT RESIDENCES ON SEPARATE LOTS WITH DEVIATIONS FROM LOT WIDTH AND AREA STANDARDS LOCATED AT 2592 ARBOR DRIVE AND 2596 CRESTVIEW DRIVE (PA2023-0125)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ali Samsami, with respect to the properties located at 2592 Arbor Drive and 2596 Crestview Drive, and legally described as Lots 57 and 58 of Tract 1102 requesting approval of a coastal development permit and tentative parcel map.
2. The applicant proposes a coastal development permit (CDP) and tentative parcel map to allow the demolition of two existing single-unit dwellings and the construction of two, new, single-unit dwellings. A new 534-square-foot, one-story single-unit dwelling and an attached 437-square-foot garage will be constructed at 2592 Arbor Drive, and a new 3,269-square-foot, two-story single-unit dwelling and an attached 576-square-foot garage will be constructed at 2596 Crestview Drive. The project also includes landscaping, hardscaping, and site walls. The proposed new construction complies with all applicable development standards. The tentative parcel map will adjust the location of the property line between the two properties and includes a request for a deviation from the design standards of Title 19 (Subdivisions) for lot width and area. All improvements authorized by this CDP will be located on private property.
3. The subject properties are designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and are located within the Single-Unit Residential (R-1) Zoning District.
4. The subject properties are 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 they are located within the Single-Unit Residential (R-1) Coastal Zoning District.
5. A public hearing was held on December 14, 2023, online via Zoom. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) and under 15315 under Class 15 (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 proposed parcel map with request deviations affects the shared property line between two parcels under common ownership and is for the purpose of accomodating the new construction of a single unit residence on each property. There will be no change in land use, density, or intensity.
3. The proposed project consists of the construction of two, new, single-unit dwellings. A new 534-square-foot, one-story single-unit dwelling and an attached 437-square-foot garage will be constructed at 2592 Arbor Drive, and a new 3,269-square-foot, two-story single-unit dwelling and an attached 576-square-foot garage will be constructed at 2596 Crestview Drive.
4. There are no known exceptions listed in CEQA Guidelines Section 15300.2 that would invalidate the use of these exemptions. 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.

Costal Development Permit

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 for the property at 2592 Arbor Drive is 5,493 square feet and the proposed floor area is 971 square feet. The maximum floor area limitation for the property at 2596 Crestview Drive is 6,507 square feet and the proposed floor area is 3,844 square feet.

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- b. The proposed development 2592 Arbor Drive provides the minimum required setbacks, which are 10 feet along the front property line abutting Arbor Drive, 4 feet along each side property line, and 10 feet along the rear property line abutting an alley. The proposed development 2592 Arbor Drive provides the minimum required setbacks, which are 10 feet along the front property line abutting Crestview Drive, 4 feet along each side property line, and 10 feet along the rear property line abutting an alley.
 - c. The highest flat roof element for the property at 2591 Arbor Drive is 10 feet from established grade and the highest sloped roof ridge is 17.4 feet from established grade, which comply with the maximum height requirements. The highest flat roof element for the property at 2596 Crestview Drive is 20.5 feet from established grade and the highest sloped roof ridge is 28.42 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of two vehicles for each single-unit dwelling, 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 proposed project includes the demolition of two single-unit residences and the construction of two single-unit residences. Each proposed residence includes a kitchen and constitutes as a dwelling unit. Therefore, there is no reduction in residential density proposed and the project complies with the Housing Crisis Act of 2019 (Senate Bill 330).
 4. The project sites are located approximately 620 feet from the mean high tide line and are separated from the water by Bay Shore Drive and existing residential development between the subject site and the water. The project sites are not protected by a bulkhead.
 5. The finished floor elevation for both the single-unit residences is 13.76 feet (NAVD 88), which complies with the minimum 9.00-foot (NAVD 88) elevation standard.
 6. The properties are not located in an area known for the potential of seismic activity. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Construction plans are reviewed for compliance with approved investigations and CBC before building permit issuance.
 7. 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.
 8. The properties are not located on the shoreline nor are they located within 100 feet of coastal waters. 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.

9. The project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.

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 in the private community of Bayshores. Developed in 1941, Bayshores is a 258-lot, single-family gated community located on the Lido Channel, southwest of Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located within the community. The community is accessible from West Coast Highway via Bay Shore Drive, a private street. The shoreline is on the south and east sides of the community and consists of bulkheads and two small sandy beaches.
2. Coastal Land Use Plan Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces two existing single-family unit dwellings located on two lots with two new single-unit dwellings. 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 residential lots do not currently provide, nor do they 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 north of the Bayshores community.
4. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas; however, the project will replace two existing single-unit dwellings with two new single-unit dwellings that comply with all applicable Local Coastal Program

development standards and maintain building envelopes 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.

Tentative Parcel Map

In accordance with Section 19.12.070 (Required Findings for Action on Tentative Maps) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- C. *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 the purposes of adjusting the property line location between two lots. The project site is currently developed with single-unit dwellings, one on each lot. The proposed development will construct new 534-square-foot, one-story single-unit dwelling and an attached 437-square-foot garage at 2592 Arbor Drive, and a new 3,269-square-foot, two-story single-unit dwelling and an attached 576-square-foot garage at 2596 Crestview Drive. The proposed subdivision and improvements are consistent with density of the R-1 Zoning District and the current RS-D General Plan Land Use category.
2. The subject property is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lots are physically suitable for single-unit dwellings because they are relatively flat. An existing single-unit dwelling will be demolished on each lot and a new single-unit dwelling will be constructed on each lot.
2. The subject properties are accessible from Arbor Drive, Crestview drive, and the alley in the rear.
3. The sites are adequately served by existing utilities, as there is one single-unit residence on each site and there is no proposed change in density.

Finding:

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

Facts in Support of Finding:

1. The property is located within a developed residential neighborhood that does not contain any sensitive vegetation or habitat on-site.
2. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15315 under Class 15 (Minor Land Divisions) of the CEQA Guidelines.

Finding:

- F. *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 the purposes of adjusting the property line location between two existing parcels. 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:

- G. *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 Public Works Department has reviewed the proposed tentative parcel map and determined that the design of the development will not conflict with easements acquired by the public at large, for access through, or use of property within the existing development because no public easements are located on the property.

Finding:

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

Facts in Support of Finding:

1. The property is not subject to the Williamson Act because the subject property is not designated as an agricultural preserve and is less than 100 acres in area.
2. The site, developed for residential use, lies in the R-1 Zoning District, which is intended for and permits residential uses.

Finding:

- I. 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:

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

Fact in Support of Finding:

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

Finding:

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

Fact in Support of Finding:

1. The proposed single unit residences are consistent with the R-1 Zoning District, which allows up to one (1) residential unit on the property. Therefore, the tentative parcel map for will not affect the City in meeting its regional housing needs.

Finding:

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

Fact in Support of Finding:

1. The project wastewater is designed to discharge into the existing sewer system and complies with the Regional Water Quality Control Board (RWQCB) requirements.

Finding:

- M. 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 3 of the Coastal Act.*

Fact in Support of Finding:

1. Facts 1-8 in support of Finding A are hereby incorporated by reference.

Deviations from Design Standards

In accordance with Section 19.24.130 (Deviation from Design Standards) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- N. *The requested deviation(s) will create a land plan or development design equal or superior to that under the baseline design standards in this chapter.*

Facts in Support of Finding:

1. The proposed lots are comparable in width, length, and area with the majority of the original subdivision in which a majority of lots had widths between 40 and 50 feet and depths of 100 feet. The proposed lot widths of approximately 40'-8" and 46'-10" are consistent with the original subdivision. The number of parcels will remain unchanged as a result of the tentative parcel map and there will be no change in the density or intensity of development. The existing parcel area of 2596 Crestview Drive is approximately 4,000 square feet. The proposed lot line adjustment will increase the parcel area to 4,865 square feet. The existing parcel area of 2592 Arbor Drive is approximately 5,091 square feet. The proposed lot line adjustment will decrease the parcel area to 4,226 square feet.
2. The existing lot orientation with vehicular access from the rear alley are maintained.

Finding:

- O. *The deviation(s) will not negatively impact the carrying capacity of the local vehicular circulation network.*

Fact in Support of Finding:

1. The proposed project would not negatively impact the carrying capacity of the local vehicular circulation network. No improvements or changes are proposed that would cause additional capacity to the roadways.

Finding:

- P. *The deviation(s) will not negatively impact pedestrian circulation.*

Facts in Support of Finding:

1. The project will not reduce, encroach or change the size or location of the Arbor Drive and Crestview Drive sidewalk.
2. The project will not eliminate or impede pedestrian circulation provided that the necessary improvements are provided in accordance with applicable Public Works design standards and permitting.

Finding:

- Q. *The resulting subdivision will be compatible with the pattern of surrounding subdivisions.*

Facts in Support of Finding:

1. The project will result in a subdivision that is compatible with the pattern of surrounding subdivision as the project will shift the interior property line between two legal parcels 1'-9" feet to the west. Land taken from the 2592 Arbor Drive parcel will be added to the 2596 Crestview Drive parcel. The number of parcels will remain unchanged as a result of the tentative parcel map and there will be no change in the density or intensity of development.
2. The subject property is located in a block that is designated R1 by the General Plan and Zoning Code. The proposed project would not alter the General Plan and Zoning Code designation.
3. The proposed shift in the interior property line between both properties would result in a lot width for the property at 2592 Arbor Drive of approximately 40'-8" and the property at 2596 Crestview of approximately 46'-10" which is more compatible with the surrounding lots than the existing configuration. The number of parcels will remain unchanged and there will be no change in the density or intensity of development. The existing parcel area of 2596 Crestview Drive is approximately 4,000 square feet. The proposed lot line adjustment will increase the parcel area to 4,865 square feet. The existing parcel area of 2592 Arbor Drive is approximately 5,091 square feet. The proposed lot line adjustment will decrease the parcel area to 4,226 square feet.

Finding:

- R. *The resulting subdivision design and improvements will be consistent with the General Plan and any applicable specific plan and will conform to the Subdivision Map Act and all other provisions of this Subdivision Code.*

Facts in Support of Finding:

1. The resulting project design results in two parcels and one residential unit on each parcel, where the General Plan allows for one unit on each parcel. Therefore, the subdivision is consistent with the density of the R-1 General Plan Land Use Designation.
2. The subject properties are not located within a specific plan area.

Finding:

- S. *The resulting subdivision design and improvements will not be materially detrimental to the residents or tenants of the proposed subdivision or surrounding properties, nor to*

public health or safety. resulting subdivision will be compatible with the pattern of surrounding subdivisions.

Fact in Support of Finding:


1. The proposed would allow one unit to be constructed on each lot in accordance with the General Plan. Approval does not introduce an incompatible land use, and the resulting subdivision design would not be detrimental to the residents as vehicular and pedestrian access would be maintained. Any development must be in accordance with the conditions of approval and the Municipal Code. The resulting lot widths are consistent with the lot widths of the original subdivision or the existing development pattern of the neighborhood.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) and under 15315 under Class 15 (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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Zoning Administrator of the City of Newport Beach hereby approves a Coastal Development Permit and Tentative Parcel Map (PA2023-0125) 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 by the provisions of Title 21 Local Coastal Program (LCP) Implementation Plan, and Title 19 Subdivisions, 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 14TH DAY OF DECEMBER, 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. 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.
3. 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.
4. 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.
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 caused by the 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. *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.*
13. *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.*
14. *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.*
15. *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.*
16. 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.

17. 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.
18. 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

19. 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.
20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
21. 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.
22. 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 **Griley Residences including but not limited to, Coastal Development Permit and Tentative Parcel Map (PA2023-0125)**. 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

23. NFPA 13D Fire sprinklers shall be required.

Public Works Department

24. 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 Section 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.
25. 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 (one 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.
26. All improvements shall be constructed as required by Ordinance and the Public Works Department.
27. An encroachment permit is required for all work activities within the public right-of-way or easement area.



COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
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COMMUNITY DEVELOPMENT DIRECTOR
ACTION LETTER

Subject: Boone Residence Substantial Conformance (PA2023-0215)
▪ Staff Approval

Site Location 408 Via Lido Nord

Applicant Jacquelyn Gentes

Legal Description Lot 477 and the northwesterly 15 feet of Lot 478 of Tract 907, excepting therefrom the northwesterly 10 feet of Lot 477

On **December 15, 2023**, the Community Development Director found the proposed project in substantial conformance and approved Staff Approval PA2023-0215 allowing a minor revision to a previously approved new single-unit residence by Coastal Development Permit (CDP) No. PA2022-033. The CDP was approved by the Zoning Administrator on March 16, 2023. The applicant proposes to reconstruct the existing seawall, which has an elevation of 12.8 feet North American Vertical Datum of 1988 (NAVD 88), to a height of 11.04 feet NAVD 88. The proposed changes do not intensify the existing use and are in substantial conformance with the approved CDP. This approval is based on the following analysis.

LAND USE AND ZONING

- **General Plan Land Use Plan Category:** RM (Multiple Residential)
- **Zoning District:** RM (Multiple Residential)
- **Coastal Land Use Category:** RM-E (Multiple Unit Residential – (30.0 – 39.9 DU/AC))
- **Coastal Zoning District:** RM (Multiple Residential)

I. PREVIOUS APPROVAL

On March 16, 2023, the Zoning Administrator approved a CDP (PA2022-033) allowing a new 3,422-square-foot two (2)-story, single-family residence with an attached 500-square-foot two (2)-car garage. The project also includes additional appurtenances such as site walls, fences, patios, drainage devices, and landscaping. Additionally, an alteration to the existing seawall was approved for the purpose of coastal hazard protection. The seawall was conditioned to maintain its existing height at 12.8 feet NAVD 88. The project complied with all applicable development standards and no deviations from development standards were requested or approved. The resolution for approval is included as Attachment No. CD 2.

II. PROPOSED CHANGES

The applicant requests a staff approval to allow a change to the approved project for the reconstruction of the existing seawall at a proposed height of 11.04 feet NAVD 88. The applicant requests a finding of substantial conformance with the previously approved CDP.

The proposed change is consistent with the requirement of a minimum bulkhead elevation of 10.9 feet NAVD 88, with a design adaptability to 14.4 feet NAVD 88. There is no proposed change to the approved residence, which conforms to all applicable development standards, including setbacks, lot coverage, height and off-street parking as evidenced by the project plans (Attachment No. CD 3) and illustrated in Table 1 below:

Table 1 – Seawall Heights (NAVD 88)			
Existing	Approved	Required	Proposed
12.8 feet	12.8 feet	10.9 feet	11.04 feet

III. FINDINGS

Pursuant to Section 20.54.070 (Changes to an Approved Project) of the NBMC, the Community Development Director may authorize minor changes to an approved site plan, architecture, or the nature of an approved use without a public hearing where the Director first finds as follows:

Finding:

A. *The changes are consistent with all applicable provisions of this Zoning Code.*

Facts in Support of Finding:

1. The project site is located within the RM (Multiple Residential) Zoning District. The proposed project revisions comply with all applicable residential development standards and no deviations are requested.
2. The project site is located within the City of Newport Beach permit jurisdiction pursuant to the Post LCP Certification Permit and Appeal Jurisdiction Map (“Map”) and is within the Appeal Area of the California Coastal Commission. Pursuant to the Map, the California Coastal Commission retains jurisdiction within tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time. The existing seawall is adjacent to a public walkway, but not located within tidelands or lands that are subject to the public trust or were subject to the public trust at any time. The existing seawall is contained entirely within private property and all alterations would be conducted without the use of mechanized equipment on the water or sand. Additionally, the project is located outside of submerged lands, which is defined as the lands that lie below the line of mean low tide (from California Code of Regulations Section 13577). Therefore, the project is under the permit jurisdiction of the City of Newport Beach.

3. The proposed minor plan revisions are consistent with the findings of approval for the previously approved CDP. There are no changes to the approved redevelopment of the single-unit residence. Instead, the applicant is proposing to reconstruct the seawall to a height which is lower than the existing seawall, but complies with the minimum height standards. 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 seawall structure permitted within the years 2021 through 2025 must have a minimum seawall elevation of 10.9 feet NAVD 88 with a design for adaptability elevation of 14.4 feet NAVD 88. The existing seawall elevation is 12.8 feet NAVD 88 and proposed to be reconstructed to 11.07 feet NAVD 88 with the capability to be raised to 14.4 feet NAVD 88.

Finding:

- B. *The changes do not involve a feature of the project that was a basis for or subject of finding or exemptions in a negative declaration or Environmental Impact Report for the project.*

Fact in Support of Finding:

1. The approved project was found to be categorically exempt from the requirements of CEQA under Section 15303, Class 3 (New Construction or Conversion of Small Structures). Class 3 exempts the demolition of up to three single-unit residences and additions of up to 10,000 square feet to existing structures. Therefore, the proposed modification of the seawall does not affect the scope identified under the Class 3 exemption.

Finding:

- C. *The changes do not involve a feature of the project that was specifically addressed or was the subject of a condition(s) of approval for the project or that was a specific consideration by the applicable review authority in the project approval.*

Facts in Support of Finding:

1. While Condition No. 2 of ZA2023-011 requires a minimum elevation of 12.8 feet NAVD 88, it was intended to ensure the existing wall remained at a suitable height to protect against future sea level rise and meet the City's minimum seawall standards. The provided Seawall Conditions Report by PMA Consulting Inc., dated January 27, 2022, stated that the existing seawall was in good condition with some minor repairable cracks, and that no repair or replacement of the seawall would be anticipated in the next 75 years. However, upon further inspection of the wall, the applicant concluded that reconstruction is required due to the fact that the existing wall and footings are designed as a generic garden wall and did not hold structural value to provide flood protection. Therefore, the Condition No. 2 is not applicable as the seawall requires reconstruction. The applicant is proposing to comply with

the 10.9-foot NAVD 88 City Standard and construct a 11.04-foot NAVD 88 seawall. The seawall is required to be adaptable to 14.4 feet NAVD 88 in the future.

2. The provided Coastal Hazards Report by PMA Consulting, Inc., dated January 27, 2022, supports that the proposed 11.04-foot NAVD 88 reconstructed seawall, with adaptability to 14.4 feet NAVD 88, will protect the property over the life of the development.

Finding:

- D. *The changes do not result in an expansion or change in operational characteristics of the use.*

Facts in Support of Finding:

1. The project site is located within the RM (Multiple Residential) Zoning District. The proposed project revisions comply with all applicable residential development standards and no deviations are requested. The minor reduction in the seawall height does not change or intensify the single unit residence.
2. All Facts in Support of Finding C incorporated by reference.

CONDITIONS OF APPROVAL

1. All conditions of approval for Coastal Development Permit No. CD2022-008 (PA2022-020) shall remain in force and effect, as stated in Attachment No. CD 2.
2. Prior to the Issuance of a Building Permit, a copy of the Staff Approval shall be incorporated into the Building Division and field sets of plans.
3. 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 **Boone Residence including, but not limited to, Staff Approval (PA2023-0215)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorney's fees, and other expenses incurred in connection with such claim, action, causes of action, suit, or proceeding whether incurred by the applicant, City, and/or the parties initiating or bringing 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 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 unless a different period is specified by the NBMC. For additional information on filing an appeal, contact the Planning Division at 949-644-3200.

Prepared by:

Approved by:



David Lee, Senior Planner

JM/dl



Seimone Jurjis

Assistant City Manager/Community
Development Director

Attachments: CD 1 Vicinity Map
CD 2 ZA Resolution ZA2023-011
CD 3 Project Plans

Attachment No. CD 1

Vicinity Map

Attachment No. CD 2

Resolution ZA2023-011

RESOLUTION NO. ZA2023-011

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO (2)-STORY SINGLE-FAMILY RESIDENCE AND ATTACHED TWO (2)-CAR GARAGE LOCATED AT 408 VIA LIDO NORD (PA2022-033)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jacquelyn Gentes (Applicant) concerning property located at 408 Via Lido Nord requesting approval of a coastal development permit. The property is legally described as Lot 477 and the northwesterly 15 feet of Lot 478 of Tract 907, excepting therefrom the northwesterly 10 feet of Lot 477 (Property).
2. The Applicant requests a coastal development permit to demolish an existing single-family residence and construct a new 3,422-square-foot, two (2)-story, single-family residence with a 500-square-foot two (2)-car garage. The project also includes additional appurtenances such as site walls, fences, patios, drainage devices, and landscaping. A modification to the existing seawall is proposed. The design complies with all applicable development standards, including height, setbacks, and floor area limit; no deviations are requested (Project).
3. The Property is designated Multiple Residential (RM) by the General Plan Land Use Element and is located within the Multiple Residential (RM) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Multiple Unit Residential (RM-E) – (30.0 – 39.9 DU/AC) and it is located within the RM (Multiple Residential) Coastal Zoning District.
5. The proposed project is located within the City of Newport Beach Permit Jurisdiction pursuant to the Post LCP Certification Permit and Appeal Jurisdiction Map (“Map”) and is within the Appeal Area of the California Coastal Commission. Pursuant to the Map, the California Coastal Commission retains jurisdiction within tidelands, submerged lands, and lands that are subject to the public trust or were subject to the public trust at any time. The existing seawall is adjacent to a public walkway, but not located within tidelands or lands that are subject to the public trust or were subject to the public trust at any time. The existing seawall is contained entirely within private property and all alterations would be conducted without the use of mechanized equipment on the water or sand. Additionally, the project is located outside of submerged lands, which is defined as the lands that lie below the line of mean low tide (from California Code of Regulations Section 13577). Therefore, the project is under the permit jurisdiction of the City of Newport Beach.

6. A public hearing was held on March 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 additions of up to 10,000 square feet to existing structures. The Project consists of the demolition of one (1) single-family residence and the construction of a new 3,501-square-foot single-family dwelling and an attached 500-square-foot two (2)-car garage.
3. The exceptions to this categorical exemption under Section 15300.2 of the CEQA Guidelines are not applicable. The Project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 4,363 square feet. The Project includes 3,422 square feet of livable area and an attached 500-square-foot two (2)-car garage. The Multiple Residential (RM) zoning category excludes 200 square feet from the total gross floor area per required parking space devoted to enclosed parking. Therefore, the gross floor area is 3,522 square feet and complies with the maximum floor area limitation.
 - b. The proposed development provides the minimum required setbacks, which are 4 feet along the front property line abutting Via Lido Nord and 3 feet along each side

property line. There is no required setback along the front property line abutting the shore.

- c. The highest two (2)-story roofline is no more than 24 feet from the established grade level of 11.45 feet based on the North American Vertical Datum of 1988 (NAVD 88), which complies with the maximum height limitation.
 - d. The Project includes enclosed garage parking for two (2) vehicles, which complies with the minimum two (2)-car parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two (2)-story, single- and multi-family residences. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
 3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by PMA Consulting, Inc. dated January 27, 2022, for the Project. The current maximum bay water elevation is 7.7 NAVD 88. The report analyzes future sea level rise scenarios assuming a 3.05-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 10.75 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).
 4. 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 existing seawall elevation is 12.8 feet NAVD 88 and is adaptable to 14.4 feet NAVD 88. The Project includes the alteration of the existing seawall, which includes removing a portion of the seawall to provide a private walkway that leads to the shore. The stairs of the walkway are located on private property and the top of concrete deck is 11.04 feet NAVD 88. Both the existing retaining wall and new concrete deck are above the minimum 10.9 feet NAVD 88 required. The Coastal Hazard Report concludes that the seawall, as altered, will not require additional shoreline protective devices as the existing wall is adequate and can be raised to 14.4 feet NAVD 88, making the Project safe from flooding hazards for the next 75 years.
 5. The finish floor elevation of the proposed single-family residence is 11.4 feet NAVD 88, which complies with the minimum 9.0-foot NAVD 88 elevation standard.
 6. 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.
 7. 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.

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 adjacent to 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. Under Section 21.35.050 (Water Quality and Hydrology Plan) of the NBMC, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Management Plan (WQMP) is required. A preliminary WQMP has been prepared for the Project by Forkert Engineering and Surveying, Inc., dated December 10, 2021. 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.
11. 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.
12. The Property is not located adjacent to a coastal view road, public access way, or coastal viewpoint as identified in the Coastal Land Use Plan (CLUP). The nearest coastal viewpoint identified by the CLUP is a small park on the street end of Via Genoa, which is approximately 110 feet east of the Property. As currently developed, the Property and other residences along Via Lido Nord are visible from the channel and within the view shed of the park. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Additionally, the Project does not contain any unique features that could degrade the visual quality of the coastal zone.

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:

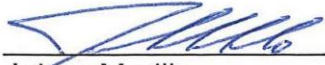
1. The Property is located between the nearest public road and the sea or shoreline. Section 21.30A.040 (Determination of Public Access/Recreation Impacts) of the NBMC requires that the provision of public access bear a reasonable relationship between the requirement and the Project's impact and be proportional to the impact. As identified in the CLUP, a small park on the street end of Via Genoa is a public beach access point and is located approximately 110 feet east of the Property. In this case, the Project replaces an existing single-family residence located on an RM lot with a new single-family residence. Therefore, the Project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the Project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. Vertical access to the bay exists throughout Lido Isle, with the closest vertical access point located at the street end of Via Genoa. Additionally, lateral access is available on the walkway and small beach in front of the site. The Project only involves work on private property and 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, 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 16TH DAY OF MARCH, 2023.



Jaime Murillo
Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. *Before the final building permit inspection, the alteration of the existing seawall shall be constructed to a minimum elevation of 12.8 feet NAVD 88 with the capability to be raised up to 14.4 feet NAVD 88, in compliance with the City of Newport Beach Waterfront Project Guidelines and Standards, Harbor Design Criteria Commercial & Residential Facilities.*
3. *Before the final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
4. *Before 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.*
5. 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.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. *All construction activities shall occur within private property and the use of mechanized equipment is prohibited within the Bay and public property.*
8. 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).

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 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.
10. 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.
11. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
12. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
13. Trash and debris shall be disposed of in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed of in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
15. The project is subject to all applicable City ordinances, policies, and standards unless specifically waived or modified by the conditions of approval.

16. The Applicant shall comply with all federal, state, and local laws. A material violation of any of those laws in connection with the use may be caused by the revocation of this Coastal Development Permit.
17. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained are detrimental to the public health, and welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained to constitute a public nuisance.
18. *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.*
19. *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.*
20. 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.
21. *Before issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
22. 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 NBMC, 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.
24. 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.
25. 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.
26. 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 NBMC unless an extension is otherwise granted.

27. 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 **Boone Residence, including, but not limited to the Coastal Development Permit (PA2022-033)**. 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.

Attachment No. CD 3

Project Plans

408 VIA LIDO NORO
 NEWPORT BEACH, CA 92663

~~T.W. ELEV = 14.40' NAVD88~~

~~FUTURE CONC STEM WALL IF DEEMED NECESSARY TO ACCOMMODATE SEA LEVEL RISE~~

PROPERTY LINE

STUCCO OR VENEER EACH FACE TAKEN INTO ACCOUNT FOR WALL DESIGN

~~T.W. ELEV = 12.80' NAVD88~~

CONC DECK BY OTHERS UNDER SEPARATE PERMIT

PLANTER PER CIVIL

EQ EQ

DATUM

T.O. DECK ELEV = 11.04' NAVD88

~~TOP OF WALL PER CODE = 11.04'~~

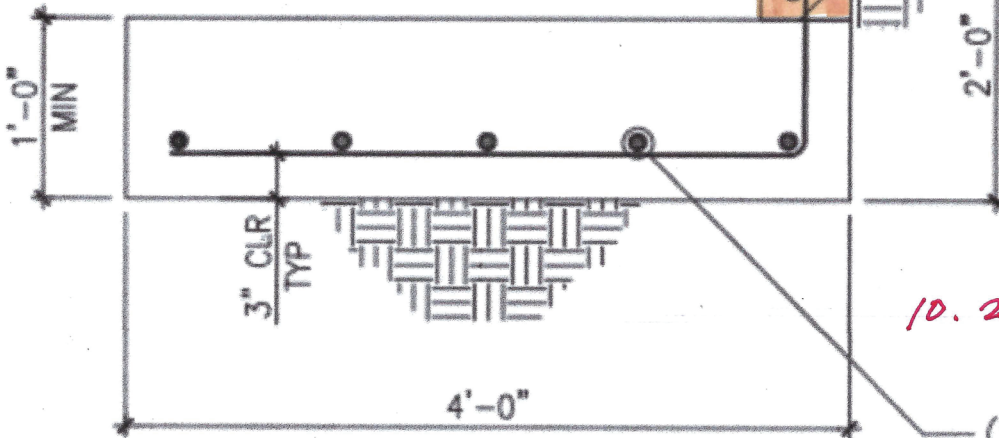
(N) REVISED HEIGHT OF PROPOSED BAYFRONT SEAWALL

6" THK SOLID GROUTED CMU SITE WALL W/#4@8" O.C. VERT & #4@16" O.C. HORIZ REINF

(E) F.S. = 8.75' NAVD88

2'-3"±

(E) CONC WALKWAY



10.25.2023

(5)#5 CONT

WALL SECTION

N.T.S.

V

