



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 for the week ending April 25, 2025.

ZONING ADMINISTRATOR PUBLIC HEARING ACTIONS APRIL 24, 2025

Item 1: HFO 2 LLC Residence Coastal Development Permit (PA2024-0214)
Site Address: 1036 West Ocean Front

Action: Approved by Resolution No. ZA2025-018	Council District	1
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Item 2: Valencia Residence Modification Permit (PA2025-0012)
Site Address: 10 Whitesands Drive

Action: Approved by Resolution No. ZA2025-019	Council District	7
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Item 3: Luke's Lobster Minor Use Permit (PA2025-0016)
Site Address: 329 Marine Avenue

Action: Approved by Resolution No. ZA2025-020	Council District	5
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Item 4: Jasper Coffee Minor Use Permit (PA2025-0021)
Site Address: 329 Marine Avenue

Action: Approved by Resolution No. ZA2025-021	Council District	5
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Item 5: Camp James Limited Term Permit and Coastal Development Permit (PA2025-0003)
Site Address: 1131 Back Bay Drive

Action: Approved by Resolution No. ZA2025-022	Council District	4
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO.ZA2025-018

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A COASTAL DEVELOPMENT PERMIT TO DEMOLISH AN EXISTING SINGLE-UNIT DWELLING AND CONSTRUCT A NEW THREE-STORY SINGLE-UNIT DWELLING AND ATTACHED THREE-CAR GARAGE LOCATED AT 1036 WEST OCEAN FRONT (PA2024-0214)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects (Applicant), concerning property located at 1036 West Ocean Front and legally described as Lot 10 of Block 10, of Tract 234 (Property), requesting approval of a coastal development permit (CDP).

The Applicant proposes a CDP to allow the demolition of an existing single-unit residence and construct a 5,032 square-foot, three-story, single-family residence with an attached 729 square-foot three-car garage. The project also includes landscaping, hardscaping, and site walls. The project complies with all applicable development standards and no deviations are requested. All improvements authorized by this CDP will be located on private property (Project).

2. The 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.
3. The Property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached - (10.0 - 19.9 DU/AC) (RSD-C) and it is located within the Single Unit Residential (R-1) Coastal Zoning District.
4. A public hearing was held on April 24, 2025, 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 because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-unit dwellings and additions of up to 10,000 square feet to existing structures. The Project consists of the demolition of

one single-unit dwelling and the construction of a new 5,032-square-foot, single-unit dwelling and attached 729 square-foot, three-car garage.

3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015(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 (LCP).*

Facts in Support of Finding:

1. The Project complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 6,416 square feet and the proposed floor area is 5,761 square feet.
 - b. The Project provides the minimum required setbacks, which are ten feet along the front property line abutting West Ocean Front, three feet along each side property line, and zero feet along the rear property line abutting the alley.
 - c. The highest guardrail is 24 feet from the established grade and the highest ridge is no more than 29 feet from the established grade, which complies with the maximum height requirements.
 - d. The Project includes garage parking for a total of three vehicles, complying with the minimum-three-car garage parking requirement for single-unit dwellings with 4,000 square feet or more of habitable floor area.
2. The neighborhood is predominantly developed with two-and three-story single- and multi-unit-dwellings. The proposed design, bulk, and scale of the development are consistent with the existing neighborhood pattern of development.
3. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by Skelly Engineering, dated October 18, 2024, for the Project. The report concludes that the Project is reasonably safe from shoreline erosion due to the Property being located

approximately 550 feet from the Mean High-Water Line of the ocean. The report also concludes that, due to the Property's distance from the ocean, the Project will be reasonably safe from future sea level rise assuming an increase up to 12.2 feet North American Vertical Datum of 1988 (NAVD88) (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) due to the Property's distance from the ocean and its proposed finished floor elevation, which is 11.59 feet NAVD88. Additionally, the proposed project has a finished floor of 11.59 feet (NAVD88), which complies with the minimum 9.0-foot NAVD88 elevation standard for new structures.

4. 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.
5. The Property is located approximately 550 feet from the Mean High-Water Line of the ocean. 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.
6. Pursuant to Section 21.35.050 (Water Quality and Hydrology Plan) of the NBMC, due to development containing more than 75% of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A preliminary WQMP has been prepared for the Project by Civilscapes Engineering dated, November 1, 2024. The preliminary WQMP identifies the BMPs that will be placed on site. The final priority WQMP shall be reviewed and approved by the Building Division and include a pollutant runoff and hydrologic site characterization, a sizing standard for BMPs, the 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.
7. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Before the issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The Project is not located near a Coastal Viewpoint or Coastal View Road as identified in the Coastal Land Use Plan (CLUP). The nearest coastal viewpoint is Balboa Pier, which is approximately 4,800 feet south from the Property, and is visible from the site. The Project is not located between Veteran Memorial Park, Marina Park, the bay, or the small

public beach located on the northern street end of 10th Street and West Bay Ave. Therefore, the Project would not obscure views from these public areas.

9. As a beachfront property, the front elevation and side elevation facing 11th Street will be visible from the beach. Given the Property is a corner lot, several design characteristics help to maintain the visual quality of the Coastal Zone. The Project provides enhanced architecture with substantial modulation and a voluntarily larger four-foot side setback along 11th Street. This side elevation also provides an open patio area with balconies above, which minimizes building mass. Additionally, while the Property only requires a ten-foot front setback, the Project provides a setback of approximately 11 feet. These enlarged setback areas help enhance the visual quality of the coast as viewed through the 11th Street street-end, as well as from the Ocean Front Boardwalk and beach beyond. The Project also complies with all applicable LCP development standards, including all third-floor standards of the NBMC which limits the size and location of the third floor. Therefore, the Project is not anticipated to degrade the visual quality of the coastal zone and would instead help to enhance it through varying architectural treatment and its design features.

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 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. In this case, the Project replaces an existing single-unit dwelling located on a standard R-1 lot with a new single-unit dwelling. Therefore, the Project does not involve a change in land use, density, or intensity that will result in increased demand for public access and recreation opportunities. Furthermore, the Project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
2. The Project is located near a Public Beach Access point as identified in the CLUP. Vertical access to the beach is available at the 11th Street end from West Balboa Boulevard and at the 10th Street end, which is also accessible from West Balboa Boulevard. The property is located adjacent to the West Ocean Front boardwalk, which serves as lateral access and provides a path along the beach for pedestrian and bicycle use. The Project does not include any features that would obstruct access along these routes.
3. The Property provides vehicular access from 10th and 11th Street as well as West Ocean Front Alley, which is not proposed to change with the Project.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this Project is categorically exempt from the California Environmental Quality Act under Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Coastal Development Permit (PA2024-0214), 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 24TH DAY OF APRIL 2025.



Benjamin M. Zdeba, AICP, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**
(project specific conditions are italicized)

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 final building permit inspection, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
3. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 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 (CCC). Before the issuance of building permits, the applicant shall provide a copy of said CDP or CDP waiver or documentation from the CCC that subject improvements are not subject to the permit requirements of the Coastal Act and/or not located within the permit jurisdiction of the CCC.
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.

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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 the Property or improvements in the vicinity or if the Property is operated or maintained to constitute a public nuisance.
16. *Prior to the issuance of a building permit, the Applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.*
17. *Prior to the issuance of a building permit, the Applicant shall submit a final drainage and grading plan. The plan shall be subject to review and approval by the Building Division.*
18. *Prior to the issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.*
19. *Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought-tolerant plantings, non-invasive plant species, and water-efficient irrigation design. The plans shall be approved by the Planning Division.*
20. *Prior to the issuance of a building permit, the final WQHP/WQMP shall be reviewed and approved by the Building Division. The implementation shall comply with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.*
21. 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.
22. 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 to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday, and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
23. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Control) of the NBMC and other applicable noise control requirements of the NBMC.
24. *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.*

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 the City's approval of **HFO 2 Residence, including but not limited to, Coastal Development Permit No. PA2024-0214**. 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 Division

28. Sewer clean out shall be installed within the public right of way per City Standard 406.
29. All damaged curb, gutter, sidewalk, and alley panels shall be reconstructed along the West Ocean Front, West Ocean Front Alley, and 11th Street.

Building Division

30. The maximum travel distance from any occupied point to a stairway or ramp that provides egress from such habitable level or basement shall not exceed 50' for habitable levels or basements located more than one story above or more than one story below an egress door.

Fire Division

31. NFPA 13D fire sprinkler system shall be installed.

RESOLUTION NO. ZA2025-019

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A MODIFICATION PERMIT FOR RETAINING WALLS THAT EXCEED 8-FEET IN HEIGHT AS MEASURED FROM FINISH GRADE LOCATED AT 10 WHITESANDS DRIVE (PA2025-0012)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mark Valencia (Applicant), with respect to property located at 10 Whitesands Drive, and legally described as Lot 17 of Tract No. 14912 (Property) requesting approval of a modification permit.
2. The Applicant proposes a modification permit to allow the construction of retaining walls in the rear and side setback with a maximum height of 17 feet when measured at the base of the wall from finish grade where the Newport Beach Municipal Code (NBMC) limits the height to 8 feet maximum. The higher retaining walls will allow the Applicant to excavate the sloping hillside in the rear of the Property for future development and accessory structures (Project). The retaining walls will be approximately 1.5 feet from the existing grade of neighboring properties to the rear and side.
3. The Property is designated Single Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Newport Ridge (PC53) Planned Community Zoning District within Residential Planning Area 1.
4. The Property is not located within the coastal zone.
5. A public hearing was held on April 24, 2025, 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 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 Class 3 exemption allows for the construction and location of limited numbers of new, small facilities or structures that include, but are not limited to, accessory (appurtenant) structures including garages, carports, patios, swimming pools, and fences. The Project proposes to construct retaining walls along the rear and side yards of the Property to allow for future development in the rear.

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.

Modification Permit

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

Finding:

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

Facts in Support of Finding:

1. The Property is located in Newport Ridge, which is a community northwest of Newport Coast, towards the eastern boundary of the City. Newport Ridge is a neighborhood that is primarily developed with two-story, single-unit dwellings, garages, and accessory structures. This neighborhood was developed in the County of Orange before Newport Ridge was annexed to the City in September 2000.
2. The Property is developed with a two-story, single-unit dwelling with an attached two-car garage, pool, landscaping, and other accessory structures. The rear of the property has approximately 50 feet (depth) of sloping hillside with trees and landscaping. The property is approximately 13,934-square-feet, however, approximately 3,700-square-feet of the property to the rear has a severe slope of approximately 30%.
3. This Property is one of five properties on the same side of Whitesands Drive that have sloping rear yards that are difficult to develop. However, other properties in the neighborhood, including the properties across from Whitesands Drive, are primarily flat lots and are able to develop the rear of the properties within the allowed development standards.
4. The properties located behind the Property on Bridgeport Road are also able to develop the rear of the properties and many are developed with accessory structures such as pools, patios, trellises, and other accessory structures allowed within the PC53 Zoning District. The Project proposes retaining walls that range from 3 feet to 17 feet when measured from finish grade where the NBMC allows a maximum of 8 feet when measured from finish grade. The retaining walls will allow the rear yard to be excavated in order to allow future development in the rear, similar to surrounding properties in the neighborhood.

5. The rear of the lot will be excavated to a finish grade similar to the majority of the lot for the primary residence and future development will not be visually impactful to the adjacent properties. Additionally, since the Project and future development will be situated in the rear of the Property, it will not be visible from the public right-of-way.
6. Should this modification permit be approved for the increase in height of retaining walls, future development in the rear yard will still be required to comply with the PC53 Zoning District and Title 20 (Planning and Zoning) of the NBMC development standards.

Finding:

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

Facts in Support of Finding:

1. The elevation at the bottom of the slope is approximately 639 feet and the elevation at the top of the slope is approximately 656 feet. The grade differential within this rear area is approximately 17 feet, which is a slope over 30%. The Property is not limited by maximum site coverage as long as development conforms to the setbacks and height standards of the PC53 Planned Community. The Property has a required side setback of five-feet and a rear setback of 10-feet. However, the sloping rear of the property prevents development, such as accessory structures, without excavating the rear of the property. Therefore, the slope essentially acts as a 50-foot setback under current conditions.
2. The Applicant is requesting to construct concrete caisson/piles retaining walls in order to grade and expand the rear yard. A Preliminary Soils Engineering and Geologic Report was prepared by NTS Geotechnical, Inc. dated September 6, 2024, for the project. The report analyzed the Property and provided recommendations for the design and construction of the retaining walls. The report concluded that the Property can be developed without adverse impacts onto or from adjoining properties upon implementation of the recommendations contained within the report.
3. The Grading and Retaining Wall plans prepared for the Project are designed consistent with the recommendations of the Preliminary Soils Engineering and Geologic Report provided, including the proposed heights of the retaining walls.
4. Expansion of the rear yard would allow the Applicant to develop the rear of the Property in the future with structures that are accessory to the primary dwelling. This is consistent with neighboring properties that are able to develop the rear of the property with accessory structures for the full enjoyment of their properties. Any future development will be required to comply with development standards set forth in the PC53 Planned Community text and NBMC including, but not limited to, setbacks and height.

Finding:

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

Facts in Support of Finding:

1. Fact 1 in support of Finding B is hereby incorporated by reference.
2. In order to lower the grade in the rear of the Property to create a flat area for development, retaining walls up to 17 feet measured from finish grade are required. Pursuant to Section 20.30.040(A)(2) (Fences, Hedges, Walls, and Retaining Walls) of the NBMC, the maximum height of a retaining wall is limited to eight feet measured from finish grade at the base of the wall, not including any required guardrails. An increase in the height of a retaining wall may be requested with the approval of a Modification Permit.
3. Pursuant to Section 20.30.040(D) (Measurement of Fence or Wall Height) of the NBMC, the height of a fence, hedge, or wall shall be measured from existing grade prior to construction at the location where the fence, hedge, or wall is located. In the side and rear setback, the maximum allowed height of fences, hedges, and walls is six feet measured from existing grade. The retaining walls will generally follow the existing grade, and the tallest portion of the wall will be located along the rear property line and is less than three feet measured from existing grade prior to construction.
4. The intent of the NBMC to limit the height of retaining walls when measured from finish grade is to prevent tall walls that are visible from public right-of-ways and neighboring properties, especially when sloping hillsides are heavily excavated and the grade is lowered. The Project will consist of retaining walls that are completely contained to the backyard of the Property and built into the hillside. The retaining walls will not be visible from the public right-of-way including Whitesands Drive. Further, the height of the retaining wall will follow the height of the existing grade to decrease visibility to neighboring properties.

Finding:

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

Facts in Support of Finding:

1. Without granting approval of the modification permit, approximately 15-feet of the 50-foot sloping hillside could be excavated to ensure retaining walls do not exceed 8 feet when measured from finish grade. The Property has a rear setback of 10-feet and does not have a maximum site coverage. The sloping hillside prevents the Property from being developed to the allowed extent of the Property's development standards.

2. The intent of the Project is to allow future development of accessory structures in the rear of the Property in conformance with the development standards of the PC53 Planned Community. Surrounding properties in this neighborhood are able to develop the entirety of their property with a primary dwelling and associated accessory structures without the limitation of a sloping hillside in the rear.
3. Excavation of the rear of the Property is allowed. However, in order to do so, retaining walls are required to support the hillside and adjacent properties that abut the side and rear. Limiting the height of the retaining walls to eight feet when measured from finish grade would only allow a portion of the rear yard to be useable.
4. An alternative design to excavate the rear of the Property would be to terrace the slope with a series of leveled flat areas and retaining walls that do not exceed the allowed height. This design would require compliance with Section 20.30.040(A)(2) (Fences, Hedges, Walls, and Retaining Walls) for the maximum height and separation of retaining walls. However, this would result in additional retaining walls that would continue to constrain the usable area in the rear of the property counterproductive to the Owner's desired benefit. Furthermore, the proposed retaining wall would still be included in the design along with the lower retaining walls. As such, this approach would not lessen any potential detriment, nor would it provide a similar benefit to the Applicant.

Finding:

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

Facts in Support of Finding:

1. Facts 2 and 3 in support of Finding B are hereby incorporated by reference.
2. The retaining walls will be located within the Property and will not create visual obstructions to the neighboring properties to the side and rear. The tallest portion of the retaining wall will be along the rear of the Property and will step down to approximately match the height of the existing grade before excavation. The proposed plans do not include a guardrail at the top of the slope. However, if a guardrail is required in the future to comply with the California Building Code (CBC), the guardrail would be 3.5 feet high, which is less than the maximum allowed height of 6 feet from existing grade in rear and side yard setbacks.
3. Any proposed future development on the Property will comply with all development standards of the PC53 Planned Community including, but not limited to, allowed uses, setbacks, height, and square footage. The Property will still maintain a single-unit-dwelling with accessory structures that is consistent with the neighborhood as well as the NBMC.

4. The Building Division has reviewed the Project and conditions of approval are included to ensure the Applicant is required to obtain all necessary permits and to demonstrate compliance with the California Building Code and other applicable Codes.
5. Approval of any City permits, including this modification permit, does not relieve the Applicant of the legal requirement to observe, covenants, conditions, and restrictions that may be recorded against the property or to obtain community association approvals.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby finds this project is categorically exempt from the California Environmental Quality Act pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Zoning Administrator of the City of Newport Beach hereby approves the Modification Permit filed as PA2025-0012, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
3. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF APRIL 2025.



Benjamin M. Zueba, AICP, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The development shall be in substantial conformance with the approved plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
4. The Modification Permit (PA2025-0012) shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
5. This Modification 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 so as to constitute a public nuisance.
6. *Fences, hedges, walls, and guardrails within required setbacks shall comply with the height requirements pursuant to Section 20.30.040 (Fences, Hedges, Wall, and Retaining Walls) of the NBMC when measured from the existing grade prior to construction.*
7. Any change in operational characteristics, expansion in area, or other modification to the approved plans, may require an amendment to this Modification Permit or the processing of a new modification permit.
8. A copy of the Resolution, including conditions of approval Exhibit “A” shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be

kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.

10. Prior to the issuance of building permits, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
11. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 (Community Noise Regulations) of the NBMC and other applicable noise control requirements of the NBMC.
12. 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.
13. 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 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.
14. 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 ***Valencia Residence Retaining Walls including, but not limited to, Modification Permit (PA2025-0012)***. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which 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.

Building Division

15. 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 CBC.
16. *Prior to issuance of building permits*, the Applicant shall submit a final soils engineering and geologic report. The report shall be subject to review and approval by the Building Division.

RESOLUTION NO. ZA2025-020

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A MINOR USE PERMIT FOR A FOR A NEW TAKE-OUT - SERVICE FAST CASUAL RESTAURANT LOCATED AT 329 MARINE AVENUE (PA2025-0016)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Alan Limon (Applicant), with respect to property located at 329 Marine Avenue, and legally described as Lot 23, Block 13, Section 4, of the Balboa Island Tract (Property), requesting approval of a minor use permit.
2. The Applicant proposes to operate a new take-out service, fast casual eating and drinking establishment (Luke's Lobster). The fast casual eating and drinking establishment, more commonly referred to as a take-out restaurant, would occupy an existing, approximately 365-square-foot, commercial building. The Applicant proposes minor tenant improvements to convert the space from a bicycle repair and retail business into a take-out restaurant with a customer ordering and point of sales area, a kitchen and prep area, a bathroom, and no on-site seating. The Applicant is not proposing alcohol service or late hours (after 11:00 p.m.) (Project).
3. The subject property is located within the Mixed-Use Water (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed-Use Water 2 (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is located within the MU-W2 (Mixed-Use Water) Coastal Zone District. The proposed take-out restaurant does not increase the parking requirement and therefore is not considered an intensification of use that would require a coastal development permit.
5. On May 9, 2023, the City Council approved Ordinance No. 2023-6, amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) related to commercial parking. As a part of the amendment, the land use category formerly known as "Take-Out Service, Limited", which allowed for establishments that sells food or beverages primarily for off-site consumption and up to a maximum of six seats, was eliminated and replaced with the land use category "Take-Out Service – Fast Casual," which is similar to "Take-Out Service, Limited," except that it allows for a maximum of 20 seats instead of six. The City Council also simultaneously approved Resolution No. 2023-27, authorizing the submittal of the commercial parking amendment of Title 21 (Local Coastal Program Implementation Plan) to the California Coastal Commission. As the Property is within the coastal zone, where the amendment is not yet effective, the Project is regulated and conditioned in accordance with the former Take-Out Service, Limited use. Therefore, the Project is limited to a maximum of six seats, as stated in Condition of

Approval No. 6, unless otherwise amended by the California Coastal Commission as stated in Condition of Approval No. 7.

6. A public hearing was held on April 24, 2025, 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 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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The Project involves alterations to the interior floor plan of an existing commercial space with no expansion in floor area and no increase in parking demand. Therefore, the Project is a negligible intensification of use and the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The Land Use Element of the General Plan categorizes this Property as MU-W2 (Mixed-Use Water 2). Table LU 1 (Land Use Plan Categories) of the Land Use Element specifies that the MU-W2 category applies to properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The Project is for a take-out restaurant, which is a commercial use, and will serve nearby residents, the surrounding community, and visitors to the City of Newport Beach. Therefore, the Project is consistent with the MU-W2 designation.
2. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Property is located in the Mixed-Use Water (MU-W2) Zoning District. The Property is abutted to the rear by a 10-foot-wide alley with residential uses beyond. Table 2-9 (Allowed Uses and Permit Requirements) of Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the NBMC allows for a take-out restaurant within 100 feet of residential uses, subject to the approval of a minor use permit (MUP). As discussed above in Statement of Fact No. 5, the Project is limited to a maximum of six seats until otherwise amended by the Coastal Commission.
2. The Property is developed with three, one-story, buildings. Previously, one tenant operated a bicycle repair and retail business in the two buildings fronting Marine Avenue and used one shared address for both buildings, without suite numbers. The Project proposes to operate in the northernmost of the Marine Avenue facing structures. There is an existing retail location at the rear of the property fronting the alley, which will remain unaffected. Condition of Approval No. 13 requires the Applicant and/or Operator obtain suite numbers prior to the issuance of a building permit.
3. There is one uncovered parking space onsite, accessed from the rear alley. The space is intended for employee parking. The Property was developed prior to current zoning code requirements and is considered legal nonconforming for parking.
4. Section 20.38.060 (Nonconforming Parking) of the NBMC allows a change of use on sites with nonconforming parking. Section 20.38.060 specifies that an existing use may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area, or lot area) occurs and the new use requires a parking rate of no more than one space per 250 square feet of gross building area.
5. Pursuant to Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, the parking requirement for a take-out service fast casual, eating, and drinking establishment is one space required per every 250 square feet of gross floor area. As the Project does not constitute an intensification in parking demand nor does it propose any enlargement, no additional parking is required.
6. The Project will comply with zoning code standards for eating and drinking establishments, specific to the take-out service fast casual land use classification as provided in 20.48.090 (Eating and Drinking Establishments) of the NBMC. This includes a maximum of 20 seats, no alcohol service, and no late hours. Conditions of Approval numbers 4, 5, 6, and 7 regulate hours of operation, alcohol service, and number of seats. These conditions help ensure that the restaurant operates per the aforementioned characteristics.
7. While the applicant is not proposing any seating as part of this project, Condition of Approval No. 6 has been written to allow the applicant the flexibility of adding up to six seats without amending this use permit. Furthermore, as discussed in Condition of

Approval No. 7, if the commercial parking amendment of Title 21 is approved and takes effect, the applicant may increase the number of seats consistent with the approved amendment and definition of take-out service, fast casual without the processing of a new use permit. The addition of seating at a later date however shall be subject to the review of the Building Division and the requirements of the California Building Code (CBC), including but not limited to providing a public restroom and an accessible path.

Finding:

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

Facts in Support of Finding:

1. The Property can be accessed by pedestrians and cyclists from Marine Avenue. Direct vehicle access to the site is not provided to the public, however there is one onsite parking space available to employees which is accessed from the rear alley.
2. Marine Avenue is developed with a mix of uses including residential, retail, office, and eating and drinking establishments. The Project is compatible with the mix of existing and allowed uses due to its similar hours of operation and being of a convenience nature located in a high-turnover, pedestrian-focused area.
3. Condition of Approval No. 4 limits the allowed hours of operation from 11:00 a.m. to 10:00 p.m., daily, which helps minimize the potential for disturbances to the residential uses to the rear of the property.
4. A trash enclosure is not currently provided on-site. Instead, all waste and recycling bins are taken behind the building. Condition of Approval No. 25 requires the operator maintain the trash area such that odors are controlled appropriately. Should the existing trash area be determined by the City in the future to be inadequate, the Applicant will be required to increase the frequency of pickups.

Finding:

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

Facts in Support of Finding:

1. The Property is located on the north end of Marine Avenue, near the entrance to Balboa Island. There is heavy vehicular traffic and pedestrian activity on Marine Avenue. The proposed take-out restaurant is not anticipated to result in increased vehicular or pedestrian activity, as the restaurant is a take-out operation of a convenience nature. Many of the restaurant patrons will likely already be on Balboa Island.

2. The Newport Beach Fire Department (NBFD) has reviewed the Project to ensure adequate public and emergency vehicle access is provided. NBFD accepted the Project as proposed and provided no conditions of approval.
3. The tenant improvement required to convert the space from a retail business to a take-out restaurant shall require a building permit and shall comply with all Building, Public Works, and Fire Codes.

Finding:

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

Facts in Support of Finding:

1. The Project will add additional take-out options to the neighborhood and provide an economic opportunity for the property owner to update the tenant space. The Project includes conditions of approval to help ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. Condition of Approval No. 15 requires the business operator take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The Applicant is required to obtain Health Department approval prior to opening for business and comply with the CBC to ensure the safety and welfare of customers and employees.

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 filed as PA2025-0016 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.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF APRIL, 2025.



Benjamin M. Zdeba, 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 and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
4. *The hours of operation for the establishment shall be limited to 11:00 a.m. through 10:00 p.m., daily.*
5. *The sale, service, or consumption of alcohol shall not be permitted unless a new use permit is approved.*
6. *No seating is included as part of the Project. Should the Applicant decide to add seating at a later date, the maximum number of seats allowed shall be six except as provided in Condition of Approval No. 7.*
7. *Should the California Coastal Commission approve the City’s pending Local Coastal Program Amendment for commercial parking, the Applicant shall be allowed to increase the number of seats consistent with the approved amendment and definition of take-out service, fast casual without the processing of a new use permit.*
8. *The addition of any seating shall be subject to the review of the Building Division and shall conform to the requirements of the CBC.*
9. *No outdoor seating is permitted without an amendment to this minor use permit or the approval of a Limited Term Permit.*
10. *All signs shall be in conformance with the provisions of Chapter 20.42 (Sign Standards) of the NBMC and any future approved Comprehensive Sign Program.*
11. *Employees of the restaurant shall not use the alley as a break area or smoking area.*
12. *Drop-off and pick-up of employees shall be prohibited in the alley.*

13. *Prior to the issuance of a building permit, an addressing letter shall be requested by the Property owner and processed by the Planning Division to establish suite numbers for the three onsite structures.*
14. This Minor Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
15. 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 is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
16. *Any change in operational characteristics, expansion in 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.*
17. 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.
18. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if 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.
19. 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.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC.
21. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
22. No outside paging system shall be utilized in conjunction with this establishment.
23. 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.

24. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
25. *All trash shall be stored within a commercial trash bin with a solid lid to screen the trash and maintain odors. The lid shall be kept closed at all times. The commercial trash bin shall be located flush against the rear wall of the building fronting the alley to prevent encroachment into the alley setback. The Applicant shall work with City Staff to determine whether an alternate location for the waste and recycling bins away from the alley is feasible. The Applicant shall further 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). If necessary, the frequency of refuse collection shall be increased to prevent an overflow of trash and/or recycling on-site.*
26. 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. Delivery vehicles shall not park or idle in the alley adjacent to the site.
27. Storage outside of the building shall be prohibited, with the exception of the required commercial trash bins.
28. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
29. 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.
30. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Luke's Lobster including, but not limited to, the Minor Use Permit filed as PA2025-0016**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant

shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works

31. The Applicant is required to install a new sewer cleanout on the existing sewer lateral, per City Standard 406.
32. No outdoor dining shall be permitted within the public right-of-way.

Building Division

33. 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 CBC. The construction plans must meet all applicable State Disabilities Access requirements.
34. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
35. Hall widths shall comply with 11B-403.5. of the CBC.
36. An accessible path of travel from public right of way to the tenant space shall be required.
37. Interior spaces with one exit or exit access doorway shall comply with table 1006.2.1 of the CBC.

RESOLUTION NO. ZA2025-021

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, APPROVING A MINOR USE PERMIT FOR A FOR A NEW TAKE-OUT - SERVICE FAST CASUAL RESTAURANT LOCATED AT 329 MARINE AVENUE (PA2025-0021)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Alan Limon (Applicant), with respect to property located at 329 Marine Avenue, and legally described as Lot 23, Block 13, Section 4, of the Balboa Island Tract (Property), requesting approval of a minor use permit.
2. The Applicant proposes to operate a new take-out service, fast casual eating and drinking establishment (Jasper Coffee). The fast casual eating and drinking establishment, more commonly referred to as a take-out restaurant, would occupy an existing, approximately 326-square-foot, commercial building. The Applicant proposes minor tenant improvements to convert the space from a bicycle repair and retail business into a take-out restaurant with a customer ordering area, a pickup area, a kitchen and prep area, and no onsite seating. The Applicant is not proposing alcohol service or late hours (after 11:00 p.m.) (Project).
3. The subject property is located within the Mixed-Use Water (MU-W2) Zoning District and the General Plan Land Use Element category is Mixed-Use Water 2 (MU-W2).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Mixed-Use Water Related (MU-W) and it is located within the MU-W2 (Mixed-Use Water) Coastal Zone District. The proposed take-out restaurant does not increase the parking requirement and therefore is not considered an intensification of use that would require a coastal development permit.
5. On May 9, 2023, the City Council approved Ordinance No. 2023-6, amending Title 20 (Planning and Zoning) of the Newport Beach Municipal Code (NBMC) related to commercial parking. As a part of the amendment, the land use category formerly known as "Take-Out Service, Limited", which allowed for establishments that sells food or beverages primarily for off-site consumption and up to a maximum of six seats, was eliminated and replaced with the land use category "Take-Out Service – Fast Casual," which is similar to "Take-Out Service, Limited," except that it allows for a maximum of 20 seats instead of six. The City Council also simultaneously approved Resolution No. 2023-27, authorizing the submittal of the commercial parking amendment of Title 21 (Local Coastal Program Implementation Plan) to the California Coastal Commission. As the Property is located in the coastal zone, where the amendment is not yet effective, the Project is regulated and conditioned in accordance with as the former Take-Out Service, Limited use. Therefore, the Project is limited to a maximum of six seats, as stated in

Condition of Approval No. 6, unless otherwise amended by the California Coastal Commission as stated in Condition of Approval No. 7.

6. A public hearing was held on April 24, 2025, 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 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. The exceptions to this categorical exemption under Section 15300.2 are not applicable.
2. The Class 1 exemption includes minor alterations to existing structures involving negligible or no expansion of use. The Project involves alterations to the interior floor plan of an existing commercial space with no expansion in floor area and no increase in parking demand. Therefore, the Project is a negligible intensification of use and the Class 1 exemption is applicable.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the NBMC, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The Land Use Element of the General Plan categorizes this Property as MU-W2 (Mixed-Use Water 2). Table LU 1 (Land Use Plan Categories) of the Land Use Element specifies that the MU-W2 category applies to properties in which marine-related uses may be intermixed with general commercial, visitor-serving commercial, and residential dwelling units on the upper floors. The Project is for a take-out restaurant, which is a commercial use, and will serve nearby residents, the surrounding community, and visitors to the City of Newport Beach. Therefore, the Project is consistent with the MU-W2 designation.
2. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The Property is located in the Mixed-Use Water (MU-W2) Zoning District. The Property is abutted to the rear by a 10-foot-wide alley with residential uses beyond. Table 2-9 (Allowed Uses and Permit Requirements) of Section 20.22.020 (Mixed-Use Zoning Districts Land Uses and Permit Requirements) of the NBMC allows for a take-out restaurant within 100 feet of residential uses, subject to the approval of a minor use permit (MUP). As discussed in Statement of Fact No. 5 above, the Project is limited to a maximum of six seats until otherwise amended by the Coastal Commission.
2. The Property is developed with three, one-story, buildings. Previously, one tenant operated a bicycle repair and retail business in the two buildings fronting Marine Avenue and used one shared address for both buildings, without suite numbers. The Project proposes to operate in the southernmost of the Marine Avenue facing structures. There is an existing retail location at the rear of the property fronting the alley, which will remain unaffected. Condition of Approval No. 13 requires the Applicant and/or Operator obtain suite numbers prior to the issuance of a building permit.
3. There is one uncovered parking space onsite, accessed from the rear alley. The space is intended for employee parking. The Property was developed prior to current zoning code requirements and is considered legal nonconforming for parking.
4. Section 20.38.060 (Nonconforming Parking) of the NBMC allows a change of use on sites with nonconforming parking. Section 20.38.060 specifies that an existing use may be changed to a new use allowed in that zoning district without providing additional parking, provided no intensification or enlargement (e.g., increase in floor area, or lot area) occurs and the new use requires a parking rate of no more than one space per 250 square feet of gross building area.
5. Pursuant to Table 3-10 (Off-Street Parking Requirements) of Section 20.40.040 (Off-Street Parking Spaces Required) of the NBMC, the parking requirement for a take-out service fast-casual, eating, and drinking establishment is one space required per every 250 square feet of gross floor area. As the Project does not constitute an intensification in parking demand nor does it propose any enlargement, no additional parking is required.
6. The Project will comply with zoning code standards for eating and drinking establishments, specific to the take-out service fast casual land use classification as provided in 20.48.090 (Eating and Drinking Establishments) of the NBMC. This includes a maximum of 20 seats, no alcohol service, and no late hours. Conditions of Approval numbers 4, 5, 6, and 7 regulate hours of operation, alcohol services, and number of seats. These conditions help to ensure that the business shall operate per the aforementioned characteristics or may be required to obtain a new use permit.
7. While the applicant is not proposing any seating as part of this project, Condition of Approval No. 6 has been written to allow the applicant the flexibility of adding up to six seats without amending this use permit. Furthermore, as discussed in Condition of

Approval No. 7, if the commercial parking amendment of Title 21 is approved and takes effect, the applicant may increase the number of seats consistent with the approved amendment and definition of take-out service, fast casual without the processing of a new use permit. The addition of seating at a later date however shall be subject to the review of the Building Division and the requirements of the California Building Code (CBC), including but not limited to providing a public restroom and an accessible path.

Finding:

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

Facts in Support of Finding:

1. The Property can be accessed by pedestrians and cyclists from Marine Avenue. Direct vehicle access to the site is not provided to the public, however there is one onsite parking space available to employees which is accessed from the rear alley.
2. Marine Avenue is developed with a mix of uses including residential, retail, office, and eating and drinking establishments. The Project is compatible with the mix of existing and allowed uses due to its similar hours of operation and being of a convenience nature located in a high-turnover, pedestrian-focused area.
3. Condition of Approval No. 4 limits the allowed hours of operation from 7:00 a.m. to 10:00 p.m., daily, which helps minimize the potential for disturbances to the residential uses to the rear of the property.
4. A trash enclosure is not currently provided on-site. Instead, all waste and recycling bins are taken behind the building. Condition of Approval No. 25 requires the operator maintain the trash area such that odors are controlled appropriately. Should the existing trash area be determined by the City in the future to be inadequate, the Applicant will be required to increase the frequency of pickups.

Finding:

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

Facts in Support of Finding:

1. The Property is located on the north end of Marine Avenue, near the entrance of Balboa Island. There is heavy vehicular traffic and pedestrian activity on Marine Avenue. The proposed take-out restaurant is not anticipated to result in increased vehicular and pedestrian activity, as the restaurant is a take-out operation of a convenience nature. Many of the restaurant patrons will likely already be on Balboa Island.

2. The Newport Beach Fire Department (NBFD) has reviewed the Project to ensure adequate public and emergency vehicle access is provided. NBFD accepted the Project as proposed and provided no conditions of approval.
3. The tenant improvement required to convert the space from a retail business to a take-out restaurant shall require a building permit and shall comply with all Building, Public Works, and Fire Codes.

Finding:

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

Facts in Support of Finding:

1. The Project will add additional take-out options to the neighborhood and provide an economic opportunity for the property owner to update the tenant space. The Project includes conditions of approval to help ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. Condition of Approval No. 15 requires the business operator take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The Applicant is required to obtain Health Department approval prior to opening for business and comply with the CBC to ensure the safety and welfare of customers and employees.


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 Minor Use Permit No. PA2025-0021 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.

PASSED, APPROVED, AND ADOPTED THIS 24TH DAY OF APRIL, 2025.



Benjamin M. Zdeba, 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 and floor plans stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The Applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
4. *The hours of operation for the establishment shall be limited to 7:00 a.m. through 10:00 p.m., daily.*
5. *The sale, service, or consumption of alcohol shall not be permitted unless a new use permit is approved.*
6. *No seating is included as part of the Project. Should the Applicant decide to add seating at a later date, the maximum number of seats allowed shall be six except as provided in Condition of Approval No. 7.*
7. *Should the California Coastal Commission approve the City’s pending Local Coastal Program Amendment for commercial parking, the Applicant shall be allowed to increase the number of seats consistent with the approved amendment and definition of take-out service, fast casual without the processing of a new use permit.*
8. *The addition of any seating shall be subject to the review of the Building Division and shall conform to the requirements of the CBC.*
9. *No outdoor seating is permitted without an amendment to this minor use permit or the approval of a Limited Term Permit.*
10. *All signs shall be in conformance with the provisions of Chapter 20.42 (Sign Standards) of the NBMC and any future approved Comprehensive Sign Program.*
11. *Employees of the restaurant shall not use the alley as a break area or smoking area.*
12. *Drop-off and pick-up of employees shall be prohibited in the alley.*

13. *Prior to the issuance of a building permit, an addressing letter shall be requested by the Property owner and processed by the Planning Division to establish suite numbers for the three onsite structures.*
14. This Minor Use Permit shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the NBMC, unless an extension is otherwise granted.
15. 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 is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
16. *Any change in operational characteristics, expansion in 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.*
17. 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.
18. The site shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, if 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.
19. 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.
20. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the NBMC.
21. Construction activities shall comply with Section 10.28.040 of the NBMC, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday. Noise-generating construction activities are not allowed on Saturdays, Sundays, or Holidays.
22. No outside paging system shall be utilized in conjunction with this establishment.
23. 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.

24. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
25. *All trash shall be stored within a commercial trash bin with a solid lid to screen the trash and maintain odors. The lid shall be kept closed at all times. The commercial trash bin shall be located flush against the rear wall of the building fronting the alley to prevent encroachment into the alley setback. The Applicant shall work with City Staff to determine whether an alternate location for the waste and recycling bins away from the alley is feasible. The Applicant shall further 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). If necessary, the frequency of refuse collection shall be increased to prevent an overflow of trash and/or recycling on-site.*
26. 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. Delivery vehicles shall not park or idle in the alley adjacent to the site.
27. Storage outside of the building shall be prohibited, with the exception of the required commercial trash bins.
28. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
29. 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.
30. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of **Jasper Coffee including, but not limited to, the Minor Use Permit filed as PA2025-0021**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant

shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Public Works

31. The Applicant is required to install a new sewer cleanout on the existing sewer lateral, per City Standard 406.
32. No outdoor dining shall be permitted within the public right-of-way.

Building Division

33. 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 (CBC). The construction plans must meet all applicable State Disabilities Access requirements.
34. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
35. Hall widths shall comply with 11B-403.5. of the CBC.
36. An accessible path of travel from public right of way to the tenant space shall be required.
37. Interior spaces with one exit or exit access doorway shall comply with table 1006.2.1 of the CBC.

RESOLUTION NO. ZA2025-022

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA, APPROVING A LIMITED TERM PERMIT AND COASTAL DEVELOPMENT PERMIT FOR A TEMPORARY SUMMER CAMP LOCATED AT 1131 BACKBAY DRIVE (PA2025-0003)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Phillip Ravenna of the Newport Dunes Marina and Resort (Applicant) on behalf of Camp James (Operator), with respect to property located at 1131 Back Bay Drive and legally described as Record of Survey RS_095_39-43 (Property).
2. The Property is located on approximately 100 acres of State tidelands in the Upper Newport Bay held in trust by the County of Orange and leased to the Applicant. The Property, known as the Newport Dunes Waterfront Resort & Marina (Newport Dunes), is currently developed with a variety of uses including a 427-slip marina, clubhouse, and marina support facilities, a 387-space recreational vehicle park with support facilities, various dry boat storage areas, a restaurant, boat launching facilities, various surface parking lots, and beach day use facilities.
3. The Applicant requests a limited term permit (LTP) and coastal development permit (CDP) to allow the operation of an outdoor summer camp for children on a portion of the Newport Dunes Property for less than 90 days. The camp will operate on weekdays, from June 9, 2025, through August 15, 2025, between the hours of 8:30 a.m. and 4:30 p.m. The camp will offer recreational programming including drama, dance, martial arts, sports, swimming, boating, and nature education to approximately 400 children per week. The camp will use a combination of temporary facilities and facilities that are already onsite. All temporary structures and amenities specific to the camp will be removed at the conclusion of this permit. No permanent improvements to the Property are proposed (Project).
4. The Property is categorized as Parks and Recreation (PR) by the Land Use Element of the General Plan and is located within the Newport Dunes Planned Community (PC48) Zoning District.
5. The Property is located within the coastal zone. The Coastal Land Use Plan category is Parks and Recreation (PR) and it is located within the Newport Dunes Planned Community (PC48) Coastal Zoning District.
6. The PC48 District does not have an adopted planned community development plan; however, land uses, and development standards are established pursuant to the Newport Dunes settlement agreement (Settlement Agreement) as adopted by the City Council on July 10, 2012.

7. Section 20.52.040 (Limited Term Permits) of the NBMC specifies that LTP applications for temporary uses that are less than 90 days do not require a public hearing and are reviewed by the Community Development Director. However, Section 21.52.0150 (Coastal Development Permits) of the NBMC specifies that CDP applications require approval through a public hearing by the City Zoning Administrator. Section 20.50.30 (Multiple Permit Applications) of the NBMC requires that multiple applications for the same project be processed concurrently and be reviewed and approved, modified, or denied by the highest review authority, which in this case is the Zoning Administrator.
8. A public hearing was held on April 24, 2025, online via Zoom. A notice of the time, place, and purpose of the hearing was given in accordance with the Newport Beach Municipal Code (NBMC). Evidence, both written and oral, was presented to and considered by the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This Project is exempt from the California Environmental Quality Act (CEQA) under Section 15304 under Class 4 (Minor Alterations to Land) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3 because it has no potential to have a significant effect on the environment.
2. The Class 4 exemption is for minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry or agricultural purposes. This includes minor temporary uses of land having negligible or no permanent effects on the environment including but not limited to carnivals or sales of Christmas trees. The Project is for a temporary outdoor summer camp which utilizes temporary facilities and structures resulting in no permanent effects on the environment. Therefore, the Class 4 exemption is applicable.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The Project 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.

Limited Term Permit

In accordance with Section 20.52.040(G) (Limited Term Permits – Finding and Decision) of the NBMC, the findings and facts in support of such findings are set forth as follows:

Finding:

- A. *The operation of the limited duration use at the location proposed and within the time period specified would not be detrimental to the harmonious and orderly growth of the City, nor*

endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the requested limited duration use.

Facts in Support of Finding:

1. The Limited Term Permit will allow the operation of the outdoor summer camp on the Newport Dunes property for a term of less than 90 days. Conditions of Approval No. 2 establishes the duration of the camp from June 9, 2025, through August 15, 2025. The Project will provide additional childcare options and an educational opportunity which serve as additional amenities for the community.
2. Conditions of Approval No. 3 limits the hours of operation for the Project to weekdays, between 8:30 a.m. and 4:30 p.m. These daytime hours help reduce the potential for noise and traffic impacts to the surrounding residential uses during the early morning, evenings, and weekends.
3. The Project will use combination of temporary facilities and facilities that are already onsite. The Property currently has a portable office, portable restrooms, a portable stage, portable storage bins and tables. The Project will set up temporary canopies and activities for children including a mini-golf course and a portable basketball court on an existing concrete slab. All temporary structures and amenities specific to the Project will be removed at the conclusion of this LTP. No permanent improvements to the Property are proposed.
4. Condition of Approval No. 11 requires the Operator to have trash receptacles conveniently located around the camp and ensure the public beach and premises are maintained free of trash and debris.
5. The Property is bounded to the west by the Bayside Village Mobile Home Park, to the north by the Back Bay and marina slips with single-unit dwellings beyond, to the east by a multi-unit senior living complex, Back Bay Drive, and the Hyatt hotel beyond, and to the south by Coast Highway with multi-unit dwellings beyond. Back Bay View Park abuts the Property to the southeast. The nearest residential properties are the mobile homes, located approximately 1,000 feet east of the Project. The Project is separated from the mobile home park by a boat storage lot, two surface parking lots, and a block wall. Due to the Project's location on the Property, intervening distance, and proposed operations, the Project is not expected to be detrimental to surrounding land uses.

Finding:

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

Facts in Support of Finding:

1. The Property is an irregular “U” shaped parcel, approximately 100 acres in area, and is developed with the Newport Dunes complex. The Project is situated on a small portion of the Property’s public beach, near northwestern point of the “U” shape. The specific Project site is bounded to the north by the marina parking lot, to the east and south by the pedestrian trail and public beach, and to the west by a dry boat storage area (Project Site). The Project Site will occupy approximately 1.4 acres, or less than 2%, of the Property. Based on the Property’s large size and small footprint of the Project Site, there is adequate area on the Property for the proposed outdoor camp.
2. While the Project is not in operation, the Project Site is part of the public beach. The Project is not anticipated to impact the normal operations to the Newport Dunes or impact usage of the public beach due to the small footprint of the Project Site on the Property.
3. Facts 2 and 5 in support of Finding A are hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. The Property is accessed through Bayside Drive, a two-lane street that is approximately 40 feet wide. Bayside Drive leads into the Property and provides access to two parking lots serving the Project.
2. The Project offers an hour and a half range for regular drop-off and pick-up times to reduce traffic congestion. Students may be picked up at any time of the day, and outside of PM peak hours, further reducing traffic congestion that may occur with the operation of a summer camp.
3. The Public Works Department has reviewed the Project and has no objections, subject to the appropriate conditions of approval. Condition of Approval No. 26 has been included which requires that student drop-off and pick-up occur onsite, and not within the public right-of-way.

Finding:

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

Facts in Support of Finding:

1. The Property has several surface parking lots throughout. The nearest, paved parking lot serves the marina and includes 486 parking stalls. The Applicant has committed to reserve

60 parking spaces for use by the Project staff within the marina parking lot. The Applicant has indicated that there is sufficient on-site parking to accommodate the Project.

2. There is an additional gravel parking lot located on the Property, adjacent to the Project Site. The gravel lot will provide a designated space for the pick-up and drop-off of students outside of the public right-of-way. The gravel parking lot provides approximately 150 parking spaces which can be used for parents, visitors, and any unanticipated or overflow parking demand generated by the Project.
3. Based on the Project's temporary nature and available onsite parking spaces, the Project is not anticipated to impact the normal operations of the Newport Dunes or be a nuisance to the nearby residential uses.
4. Fact 3 in Support of Finding C is hereby incorporated by reference.

Finding:

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

Facts in Support of Finding:

1. The Land Use Element of the General Plan categorizes this Property as Parks and Recreation (PR). Table LU 1 (Land Use Plan Categories) of the Land Use Element specifies that the PR category applies to land used or proposed for active public or private recreational use. Examples of appropriate uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The Project is for a temporary outdoor summer camp located within the Newport Dunes which provides recreational opportunities for children. The Project is therefore consistent with the General Plan designations.
2. Policy NR 16.6 (Water-Related Education and Research within Upper Newport Bay) of the Natural Resources Element of the General Plan promotes facilities in and around the Upper Newport Bay to adequately serve as water quality and estuarine education and research programs. The Project is for a temporary outdoor summer camp in the Upper Newport Bay where children are introduced to marine education and participate in boating and other aquatic activities. The Project is, therefore, consistent with Policy NR 16.6.
3. The Settlement Agreement which serves as the zoning document for the Property and lists uses which are specifically allowed and prohibited on the Property. None of the specified allowed or prohibited uses are similar to the Project. While the Settlement Agreement does not specially preclude the Project or similar land uses, the Property is designated as PR by the General Plan which directly aligns with the Project's intent to provide additional recreational opportunities. Allowing a temporary outdoor camp for children at this Property also directly aligns with the intended use of the Property, which is a place for outdoor recreation and education.

4. The Property is not located within a specific plan area.

Coastal Development Permit

In accordance with 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:

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

Facts in Support of Finding:

1. Pursuant to Section 21.52.035(D) (Projects Exempt from Coastal Development Permit Requirements – Special and Temporary Events), the Project is not exempt from a CDP requirement because the Project would occur between Memorial Day weekend and Labor Day and occupy a portion of a public sandy beach. Therefore, approval of a CDP is required for the Project.
2. The Land Use and Development Element of the Coastal Land Use Plan (CLUP) categorizes this Property as Parks and Recreation (PR). The PR category applies to land used or proposed for active public or private recreational use. Examples of appropriate uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation, and similar facilities. The Project is for a temporary outdoor summer camp located within the Newport Dunes and provides recreational opportunities for children. The Project is therefore consistent with the CLUP designation.
3. Policy 2.1.7-1 (Newport Dunes) of the CLUP intends to protect, and if feasible, expand and enhance, the variety of recreational and visitor-serving uses with emphasis on lower cost uses. The Project is for a temporary outdoor summer camp which provides recreational opportunities for children within the Newport Dunes. The Project is, therefore, consistent with Policy 2.1.7-1.
4. The Property is located within the PC48 Coastal Zoning District which does not have an adopted planned community development plan; however, land uses and development standards are established pursuant to the Settlement Agreement.
5. The Project Site is located within the immediate vicinity of various designated coastal views, as identified in the CLUP. The nearest coastal viewpoint is approximately 1,600 feet to the south, at Back Bay View Park. Site investigation revealed that the Project is visible from Bay View Park. The tallest temporary improvement proposed, a canopy, is only 12 feet tall and would not exceed the height of the marina clubhouse beyond. Because the improvements are small in height, bulk, and scale, and are temporary, the Project is not anticipated to block views of the Back Bay, the bluffs beyond, or degrade the visual quality of the coastal zone.

6. There are additional viewpoints within proximity of the Project including West Cliff Park, approximately 1,700 feet to the north, and both Castaways and Lower Castaways Park approximately 3,000 feet to the west. The Project is generally not visible from these viewpoints due to the substantial distance from the Project and intervening structures including the Newport Dunes Marina club house, landscaping, and the Bayside Village Mobile Home Park.
7. The Property is located adjacent to Coast Highway and Back Bay Drive which are designated as coastal view roads by the CLUP. The Project is visible from portions of both Coast Highway and Back Bay Drive. Because the improvements are small in height, bulk, and scale, and are temporary, the Project is not anticipated to block views of the Back Bay, the bluffs beyond, or degrade the visual quality of the coastal zone.

Finding:

- G. *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 of 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 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. In this case, the Project is for a temporary outdoor camp at the Newport Dunes and facilitates access to coastal recreational opportunities and coastal education to children. The Project itself does not increase the demand for public access or recreational opportunities but instead is an enhancement to the existing public access and recreational opportunities located on the Property.
2. While the CLUP does not have any designated beach access locations at the Property, there are several beach access locations on the Property and around the central lagoon. The Project is located within a small portion of the Property and does not include any features that would obstruct access along the Newport Dunes public walkway trail or any of the nearby beach access locations that are maintained as part of the Settlement Agreement.

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 15304 under Class 4 (Minor Alterations to Land) 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 Limited Term Permit and Coastal Development Permit filed as PA2025-0003, 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 Implementation Plan), of the NBMC. 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 24TH DAY OF APRIL, 2025.



Benjamin M. Zieba, AICP, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

Planning Division

1. The Project shall be in substantial conformance with the approved site plan stamped and dated with the date of this approval, except as modified by applicable conditions of approval.
2. *The Project shall be permitted on the Property, on weekdays, between June 9, 2025, and August 15, 2025. Operation of the Project outside of this duration is prohibited without subsequent review by the Planning Division and the potential processing of a new limited term permit and coastal development permit.*
3. *The Project shall be permitted to operate between the hours of 8:30 a.m. and 4:30 p.m.*
4. *The Property shall be cleaned of all debris, litter, amenities and temporary structures and amenities specific to the Project, within 30 days of the expiration of the LTP.*
5. *The Project shall not impede public access to the adjacent public path which facilitates public access to the beach.*
6. The Project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. 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 cause the revocation of this approval.
8. All noise generated by the Project shall comply with the provisions of Chapter 10.26 (Community Noise Control) and other applicable noise control requirements of the NBMC.
9. 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 NBMC to require such permits.
10. The Property shall not be excessively illuminated based on the luminance recommendations of the Illuminating Engineering Society of North America, or, in the opinion of the Community Development Director, 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 Property is excessively illuminated.

11. *The Operator shall install trash receptacles conveniently located around the Project Site and ensure the public beach and premises are maintained free of trash and debris.*
12. 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).
13. Prior to the operation of the Project, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
14. To the fullest extent permitted by law, Applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Camp James** including, but not limited to the **Limited Term Permit and Coastal Development Permit filed as PA2025-0003**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division

15. *Any areas used for temporary commercial or institutional use shall be accessible to disabled persons.*
16. *An accessible path of travel to all functional areas shall be provided.*
17. *Access to restrooms shall be provided at all times.*
18. *Accessible parking stalls shall not be used for seating areas when onsite parking is provided.*
19. *Detectable warnings shall be required when pedestrian paths cross or are adjacent to a vehicular way where no physical barrier are provided to separate the two.*

20. *A minimum of 5% accessible seating shall be provided at tables and counters with knee clearances of at least 27 inches high, 30 inches wide, and 19 inches deep.*
21. *The tops of dining surfaces and work surfaces shall be 28 to 34 inches above the finished floor.*
22. *All exiting paths shall be a minimum of 48 inches free and clear. All public walks and sidewalks shall be a minimum 48 inches free and clear.*
23. *All building exits shall remain free and clear of any obstacles that would impede exiting from a building or suite and accessing the nearest public right-of-way*
24. *Accessible routes, including under canopy(ies) and other overhead improvements shall maintain a minimum clear height of 80 inches.*
25. *All electrical distribution lines shall be in good working order and shall be protected from pedestrian and vehicular traffic and shall accommodate accessibility.*

Public Works Department

26. *The Applicant and/or Operator shall ensure that camper drop-off and pick-up areas do not occur within the public right-of-way.*