



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending July 1, 2016

**ZONING ADMINISTRATOR ACTIONS
JUNE 30, 2016**

- Item 1: 607 Carnation Condominiums Tentative Parcel Map No. NP2016-010 (PA2016-082)
Site Location: 607 and 607 ½ Carnation Avenue
- Action: Approved by Resolution No. ZA2016-037 Council District 6
- Item 2: Back To Basics Minor Use Permit No. UP2016-014 (PA2016-060)
Site Location: 20311 Birch Street, Suite 150
- Action: Approved by Resolution No. ZA2016-038 Council District 3
- Item 3: The Ritz Pylon Sign Amendment No. CS2016-006 and Modification Permit No. MD2016-007 (PA2016-073)
Site Address: 2801 W. Coast Highway
- Action: Approved by Resolution No. ZA2016-039 Council District 3
- Item 4: Big Canyon Country Club Maintenance Facility Minor Site Development No. SD2015-008 and Limited Term Permit No. XP2016-002 (PA2015-212)
Site Address: 1850 Jamboree Road and 1901 MacArthur Boulevard
- Action: Approved by Resolution No. ZA2016-040 Council District 5

- Item 5: Annual Review of Development Agreement for North Newport Center (PA2009-023)
Site Address: Sub-areas of Fashion Island; Block 100, Block 400, Block 500, Block 600, and Block 800 of Newport Center Drive; and San Joaquin Plaza

Action: *Item Continued to July 14, 2016 ZA Hearing* Council District 5

**HEARING OFFICER ACTIONS
JUNE 27, 2016**

- Item 1: 2294 Channel Road Reasonable Accommodation No. RA2016-001 (PA2016-075)
Site Address: 2294 Channel Road

Action: Approved by Resolution No. HO2016-002 Council District 1

APPEAL PERIOD: An appeal 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 of time 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. ZA2016-037

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING TENTATIVE PARCEL MAP NO. NP2016-010 FOR TWO-UNIT CONDOMINIUM PURPOSES LOCATED AT 607 AND 607 ½ CARNATION AVENUE (PA2016-082)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by SC Homes, Inc., with respect to property located at 607 and 607 ½ Carnation Avenue, and legally described as Lot 7, Block 630, Corona Del Mar Tract, requesting approval of a tentative parcel map.
2. The applicant proposes a tentative parcel map application for two-unit condominium purposes. No waiver of Title 19 (Subdivisions) development standards are proposed with this application. An existing single-family residence was demolished and will be replaced with a new two-unit duplex. The Tentative Parcel Map would allow each unit to be sold individually.
3. The subject property is located within the Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject property is located within the coastal zone. The Coastal Land Use category is Two-Unit Residential (RT-D).
5. A public hearing was held on June 30, 2016, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to the State CEQA (California Environmental Quality Act) Guidelines under Class 15 (Minor Land Divisions).
2. The Class 15 exemption allows the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels are available, the parcel was not involved in a division of a larger parcel within the previous two years, and the parcel does not have an average slope greater than 20 percent. The Tentative Parcel

Map is for condominium purposes and is consistent with all of the requirements of the Class 15 exemption.

SECTION 3. REQUIRED FINDINGS.

The Zoning Administrator determined in this case that the Tentative Parcel Map is consistent with the legislative intent of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code and is approved based on the following findings per Section 19.12.070 (Required Findings for Action on Tentative Maps) of Title 19:

Finding:

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

Facts in Support of Finding:

1. The Tentative Parcel Map is for two-unit residential condominium purposes. A single-family residence was demolished and will be replaced with a new two-unit duplex. The proposed subdivision and improvements are consistent with the density of the R-2 Zoning District and the current RT General Plan Land Use Designation.
2. The Tentative Parcel Map does not apply to any specific plan area.

Finding:

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

Facts in Support of Finding:

1. The lot is physically suitable for a two-unit development because it is regular in shape and is relatively flat.
2. The subject property is accessible from Carnation Avenue and an alley at the rear, and is adequately served by existing utilities.

Finding:

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

considerations make infeasible the mitigation measures or project alternatives identified in the environmental impact report.

Facts in Support of Finding:

1. The site was previously developed with a single-family residence which has been demolished and will be replaced with a new two-unit duplex.
2. The property is located in an urbanized area that does not contain any sensitive vegetation or habitat.
3. The project is categorically exempt under Section 15315 (Article 19 of Chapter 3), of the California Environmental Quality Act (CEQA) Guidelines – Class 15 (Minor Land Alterations).

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The property is not a "land project" as defined in Section 11000.5 of the California Business and Professions Code because the existing subdivision does not contain fifty (50) or more parcels.
2. The project is not located within a specific plan area.

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

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

Finding:

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

Facts in Support of Finding:

1. The subject property is located within the Coastal Zone. The subdivision conforms to the Local Coastal Program since the Coastal Land Use category is Two-Unit Residential (RT-D).

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Tentative Parcel Map No. NP2016-010 (PA2016-082), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 30th DAY OF JUNE, 2016.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. A parcel map shall be recorded. The Map shall be prepared on the California coordinate system (NAD88). Prior to recordation of the Map, the surveyor/engineer preparing the Map shall submit to the County Surveyor and the City of Newport Beach a digital-graphic file of said map in a manner described in Section 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. **The Map to be submitted to the City of Newport Beach shall comply with the City's CADD Standards. Scanned images will not be accepted.**
2. Prior to recordation of the parcel map, the surveyor/engineer preparing the map shall tie the boundary of the map into the Horizontal Control System established by the County Surveyor in a manner described in Sections 7-9-330 and 7-9-337 of the Orange County Subdivision Code and Orange County Subdivision Manual, Subarticle 18. Monuments (one inch iron pipe with tag) shall be set On Each Lot Corner unless otherwise approved by the Subdivision Engineer. Monuments shall be protected in place if installed prior to completion of construction project.
3. All improvements shall be constructed as required by Ordinance and the Public Works Department.
4. The existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the Carnation Avenue frontage shall be reconstructed.
5. All existing overhead utilities shall be undergrounded.
6. No above ground improvements shall be installed within the 5-foot alley setback.
7. Each unit shall be served by its individual water meter and sewer lateral and cleanout. Each water meter and sewer cleanout shall be installed with a traffic-grade box and cover. Water meter and the sewer cleanout shall be located within the public right-of-way.
8. An encroachment permit is required for all work activities within the public right-of-way.
9. All improvements shall comply with the City's sight distance requirement. See City Standard 110-L and Municipal Code 20.30.130.
10. In case of damage done to public improvements surrounding the development site by the private construction, additional reconstruction within the public right-of-way could be required at the discretion of the Public Works Inspector.
11. All on-site drainage shall comply with the latest City Water Quality requirements.

12. All unused water services to be abandoned shall be capped at the main (corporation stop) and all unused sewer laterals to be abandoned shall be capped at property line. If the sewer lateral to be abandoned has an existing cleanout, abandonment shall include removal of the cleanout riser, the 4TT box and the wye. Sewer lateral shall then be capped where the wye used to be.
13. Prior to recordation of the Parcel Map, a park fee shall be assessed for one additional dwelling unit.
14. Subsequent to the recordation of the Parcel Map, the applicant shall apply for a building permit for a description change of the subject project development from “duplex” to “condominium.” **The development will not be condominiums until this permit is finalized.** The building permit for the new construction shall not be finalized until after recordation of the Parcel Map.
15. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20, Planning and Zoning, of the Newport Beach Municipal Code.
16. 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 607 Carnation Condominiums including, but not limited to Tentative Parcel Map No. NP2016-010 (PA2016-082). 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.

RESOLUTION NO. ZA2016-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2016-014 FOR MASSAGE SERVICES IN CONJUNCTION WITH AN EXISTING CHIROPRACTIC OFFICE LOCATED AT 20311 BIRCH STREET SUITE 150 (PA2016-060)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Back to Basics Health and Wellness, with respect to property located at 20311 Birch Street, Suite 150, and legally described as Parcel 1 of Parcel Map 89-341, as recorded in Book 268, Page 37, requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow the operation of massage services as an accessory use to an existing chiropractic office in a 3,068 square-foot suite on the first floor of an existing multi-tenant commercial building. The tenant space is improved with three chiropractic rooms, two massage rooms, an exam room, an acupuncture room, a nutrition room, an office, a kitchenette, restrooms, and a reception area. Use Permit UP2012-019 was approved in 2012 allowing 14,150 square feet at the subject property, including the subject suite, to be allocated for medical use. The application also includes a request to waive location restrictions associated with massage establishments.
3. The subject property is located in the Business Park area of the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 30, 2016, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities) of the Guidelines for CEQA.
2. The Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the allowance of

massage services and does not result in an intensification of use, parking, or expansion in floor area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020.F (Conditional Use Permits and Minor Use Permits – Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The property is designated General Commercial Office (CO-G) in the Land Use Element of the General Plan. This designation is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses.
2. The proposed massage service is accessory to the existing chiropractic office and is therefore consistent with the CO-G land use designation.
3. The site is located in the Santa Ana Heights Specific Plan District within the Business Park area (SP-7, BP). Service uses are allowed within this area with approval of a minor use permit.

Finding:

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

Facts in Support of Finding:

1. Service uses are allowed within the Business Park area of the Santa Ana Heights Specific Plan District (SP-7, BP) with approval of a minor use permit.
2. In 2012, Use Permit UP2012-019 was approved to allow 14,150-gross-square-feet of medical office uses within the 45,750-net-square-foot office condominium complex. The proposed minor use permit would allow accessory massage services in conjunction with an existing chiropractic office located within a suite approved for medical office uses.
3. The proposed massage use is consistent with the legislative intent of Section 20.48.120 (Massage Establishments and Services) and Chapter 5.50 (Massage Establishments) of the Municipal Code. These sections provide standards for the establishment, location, and operation of massage establishments. The intent is to promote the operation of legitimate massage services and to prevent problems of

blight and deterioration that may accompany and result from large numbers of massage establishments.

4. The massage establishment is not located within 500 feet of a public or private school, park, playground, civic center, cultural site, or religious institution.
5. Pursuant to the Zoning Code, the City may establish the parking requirement for a massage use through the use permit process. The proposed massage use is accessory and integrated into the existing chiropractic office and does not intensify the use. Therefore, it is sufficiently parked at the medical office parking rate approved for the suite with Use Permit UP2012-019 (PA2012-112).
6. As conditioned, the proposed use will comply with all other applicable provisions of the Zoning Code and Municipal Code.

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 applicant proposes massage services as an accessory use to an existing chiropractic office on the first floor of multi-tenant commercial building within an office complex.
2. Existing uses in the building include general offices and medical offices. Adjacent land uses include similar nonresidential uses. The proposed massage services will provide a service that is complementary to the existing permitted chiropractic office.
3. The nearest residential uses are located across Birch Street. These properties are also located within the Business Park area of the Santa Ana Heights Specific Plan. Massage services as an accessory use to an existing chiropractic office will not intensify or have any negative impacts on the nearby residential uses.
4. The proposed operation will consist of two massage rooms, accessory and integrated into a chiropractic office. A maximum of six employees will be on-site at one time.
5. As conditioned, the hours of operation are 8:00 a.m. to 9:00 p.m. daily and should minimize any potential late night/early morning land use conflicts with nearby properties, including residential uses across Birch Street.
6. The proposed massage use will not result in an intensification of use because it is accessory to the existing chiropractic office. Therefore, no additional parking is required.

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 an office complex consisting of five two-story buildings constructed in a U-shape around an open area facing Birch Street. The floors of the buildings (10) are individually owned office-condominiums. Each floor consists of approximately 4,575 net square feet of floor area (total 45,750 net square feet). Pursuant to Use Permit UP2012-019 (PA2012-112), 14,150 square feet is permitted to operate as a medical office use.
2. Parking is provided within shared parking areas below each building and within the open area of the site facing Birch Street.
3. Adequate public and emergency vehicle access, public services, and utilities are provided on the property.

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 establishment has been conditioned with hours of operation that will minimize any potential detriment to the area, including the residential uses across Birch Street.
2. The existing multi-tenant building is not located in an area with problems of blight and deterioration.
3. The Building and Code Enforcement Divisions and the Fire and Police Departments have reviewed the proposal. Recommended conditions of approval have been included to limit any detriment to the City or general welfare of person's residing or working in the surrounding neighborhood.

In accordance with Section 20.48.120.B (Massage Establishments and Services – Waiver of Location Restrictions) of the Newport Beach Municipal Code, the following findings and facts in support of the findings are set forth:

Finding:

F. The proposed use will not be contrary to public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.

Facts in Support of Finding:

1. The intent of this section is to promote the operation of legitimate massage services and to prevent problems of blight and deterioration that can accompany large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.
2. Although the subject property is located within 500 feet of another property approved to offer massage services (20301 Acacia Street, Suite 250 – chiropractic and wellness center), both establishments offer massage as a an accessory and integrated use.
3. Massage is a common accessory use to a chiropractic office and is included in the Scope of Chiropractic Practice in Article 1, Section 302 of the State of California Board of Chiropractic Examiners Rules and Regulations.
4. The business at 20301 Acacia Street operates pursuant to Use Permit No. UP2015-028, which operates as a health and wellness center with ancillary massage services. The two massage services will not be contrary to public interest. Both require an Operator Permits from the Newport Beach Police Department and must comply with conditions of approval.

Finding:

- G. The proposed use will not enlarge or encourage the development of an urban blight area.*

Facts in Support of Finding:

1. The chiropractic office is located in a well maintained office complex. The property is not located in a blighted area.

Finding:

- H. The proposed use will not adversely affect a religious institution, school, park, or playground.*

Facts in Support of Finding:

1. There are no religious institutions, schools, parks, or playgrounds within 500 feet of the subject property, therefore the proposed use will not have any adverse effects on these uses.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2016-014, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal 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 30th DAY OF JUNE, 2016.

BY:



Brenda Wisneski, AICP, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. 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.
3. The 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.
4. Any change in operational characteristics, expansion in area, or other modification to the approved plans may require an amendment to this Minor Use Permit or the processing of a new permit.
5. Hours of operation shall be limited to 8:00 a.m. to 9:00 p.m. daily.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. 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.
8. A maximum of six employees for the medical office and accessory massage use combined shall be onsite at any one time.
9. A maximum of two rooms shall be used for massage therapy.
10. An independent massage business is not permitted unless an amendment to this Minor Use Permit or a new Use Permit is first approved.
11. Any therapists/technicians working as independent contractors shall obtain their own City of Newport Beach business license.
12. A valid business license from the City of Newport Beach with sellers permit shall be required. Any contractors/subcontractors doing work at the subject site shall be required to obtain a valid business license from the City of Newport Beach prior to the commencement of any work on the subject site.

13. The applicant shall adhere to all provisions set forth in AB1147 and Business and Professions Code Chapter 10.5 (Massage Therapy Act), relating to operating a massage establishment.
14. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department, including any existing improvements that were constructed without the benefit of building permits. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
15. 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 property owner or the leasing agent.
16. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning), of the Newport Beach Municipal Code.
17. 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 Back to Basics Minor Use Permit including, but not limited to, Minor Use Permit No. UP2016-014 (PA2016-060). 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.

Police Department

18. The operator must apply for, obtain, and maintain an Operator Permit in good standing with the Newport Beach Police Department.
19. All employees of the applicant business who conduct massage on or off premises must be certified by the CAMTC.

Code Enforcement Division

20. A current list of employee names and state certifications shall be posted near the entry onsite. The list shall be available upon request by City officials for inspection.

21. All windows shall remain visible and transparent in nature. Window signage shall comply with Newport Beach Municipal Code.
22. The facility shall be maintained in a safe and sanitary condition.
23. No deliveries or supporting services shall occur outside the hours of 8:00 a.m. to 9:00 p.m. daily.
24. Violations of the Penal Code may invoke revocation of this permit.

RESOLUTION NO. ZA2016-039

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2016-006 AMENDING AND SUPERSEDING COMPREHENSIVE SIGN PROGRAM NO. 2015-011 AND MODIFICATION PERMIT NO. MD2016-007 FOR A NEW PYLON SIGN LOCATED AT 2801 WEST COAST HIGHWAY (PA2016-073)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John Crispis of Tako Tyko Signs, representing property owner, Khoshbin's Landing, LLC, with respect to property located at 2801 West Coast Highway, and legally described as a portion of Lot H of Tract 919, requesting approval of an amended comprehensive sign program and modification permit.
2. The applicant proposes a comprehensive sign program amendment and modification permit to authorize a new pylon sign (Sign Type 11) for The Ritz restaurant at an existing commercial development. The pylon sign will utilize two existing pole stanchions located along the West Coast Highway property frontage. This Comprehensive Sign Program amends and supersedes Comprehensive Sign Program No. CS 2015-011 (PA2015-162) for this site. The modification permit includes the following requests to deviate from the pylon sign development standards:
 - a. To deviate from the location standards for a pylon sign (50-foot distance between freestanding signs).
 - b. Pylon maximum sign width (10 feet is requested where the standard is 6 feet).
 - c. Pylon maximum leg height (15 feet is requested where the standard is 6 feet 6 inches or 30% of overall sign height).
3. The subject property is located within the MU-W1 (Mixed-Use Water Related) Zoning District and the General Plan Land Use Element category is MU-W1 (Mixed-Use Water Related).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related).
5. A public hearing was held on June 30, 2016, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 11 allows for the construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to signs. The site is fully developed for commercial uses and the foundation and support for the proposed sign is already in place.

SECTION 3. REQUIRED FINDINGS.

Comprehensive Sign Program

Pursuant to Section 20.42.120 (Comprehensive Sign Program) of the Zoning Code, approval of a Comprehensive Sign Program is required whenever signage is proposed for development where there are three or more tenant spaces on the same lot and whenever signs are proposed to be located on or above the second story on a multi-story building. In accordance with Section 20.42.120.E (Comprehensive Sign Program: Standards), the following standards and facts in support of such standards are set forth:

Standard:

- A. *The proposed sign program shall comply with the purpose and intent of this Chapter (Chapter 20.42: Sign Standards), any adopted sign design guidelines and the overall purpose and intent of this Section (Section 20.42.120: Comprehensive Sign Program).*

Facts in Support of Standard:

1. In compliance with the purpose and intent of the sign standards, the amended Comprehensive Sign Program provides the site and the uses with adequate identification and way-finding without excessive proliferation of signage. Furthermore, it preserves community appearance by regulating the type, number, size, and design of signage in a comprehensive and coordinated fashion.
2. The amended sign program establishes a sign type for a pylon/freestanding sign (Sign 11) located at the street frontage along West Coast Highway. This sign type includes deviations in the development standards due to the close proximity of other pylons on adjacent properties, and leg height in order to allow the sign to utilize an existing sign location with two pole stanchions in place for structural support.
3. The sign program establishes a sign type for address signage (Sign 2) located at the West Coast Highway frontage that exceeds the size limitations for exempt signage in the Zoning Code.

4. The sign program allows for one address sign (Sign 2), building identification sign (Sign 3), six tenant wall signs (Signs 4-6 and Signs 8-10), and Sign 7 (Restaurant Secondary Sign) to be mounted above the first floor level on the West Coast Highway and waterfront facades of the building. The locations of these signs are intended to fit the architecture of the building and improve visibility to vehicles and boaters as they approach the building along each frontage.
5. The signs above the first story on the building are beneficial and can be viewed from a greater distance for drivers and boaters due to their location and placement on each building frontage. The location of the larger restaurant secondary sign (Sign 7) along the water frontage will improve the visibility for this primary tenant from Newport Harbor. The size increase above 50 percent of the primary frontage sign area is within the 30 percent sign area increase allowed with the approval of a comprehensive sign program.

Standard:

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

Facts in Support of Standard:

1. The signs have been designed to be integral with the design and architectural character of the buildings and other site improvements.
2. The signage will enhance the overall development of the site. It will provide adequate identification of the site and will also improve the pedestrian experience.
3. The request for an increased pylon sign width will be incompatible with other pylon signs located along the West Coast Highway frontage and thus should be modified to comply with the maximum 6-foot width.

Standard:

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

Facts in Support of Standard:

1. The sign program includes all project signage. Temporary and exempt signs not specifically addressed in the program shall be regulated by the provisions of Chapter 20.42 (Sign Standards).

Standard:

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

Facts in Support of Standard:

1. The Comprehensive Sign Program is designed to be effective for future tenants of the building.
2. It is not anticipated that future revisions will be necessary to accommodate constant changes in tenants or uses. However, flexibility has been incorporated into the Sign Program Matrix to allow minor deviations from the proposed signs.
3. Consistent with Chapter 20.42 (Sign Standards), the Community Development Director [or his/her designee] may approve minor revisions to the Comprehensive Sign Program if the intent of the original approval is not affected.

Standard:

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

Facts in Support of Standard:

1. The Comprehensive Sign Program authorizes freestanding pylon, building address, building identification, and tenant wall signage and requests deviation in the type, location, and area of signs prescribed in the Zoning Code. The signs are designed to be complimentary to the building's restaurant and office use and are harmonious with the surrounding buildings and uses.
2. The sign program establishes a sign type for a freestanding pylon sign (Sign 11) and Modification Permit No. MD2016-007 allows deviations in the location, and pylon leg height standards to allow the applicant to utilize two existing pole stanchions for structural supports along the West Coast Highway street frontage. The location and design of the pylon most closely approximates the design and development standards for pylon signage given the site parameters and existing building constraints. The proposed pylon shall be modified to comply with the Zoning Code standard maximum of 6 feet. This will require the reconstruction of one of the existing pole stanchions so that the final design is more compatible with other pylon signs in the surrounding community.
3. The sign program establishes a sign type for address signage (Sign 2) and deviates in the size and location of this signage to allow for adequate visibility of the site for pedestrians and vehicles approaching along West Coast Highway. Given the increased speed of vehicles passing by along West Coast Highway, the additional prominence of the building address will assist patrons as they locate the site.

4. The sign program allows for building signs to be placed above the first floor level. The proposed sign placement allows for appropriate building and tenant identification that is complimentary to the modified building façade following renovation. The façade provides an updated and modern entry for the building and improves pedestrian, boater, and vehicle visibility as patrons approach the primary entrances of the building along West Coast Highway and from Newport Harbor. The other tenant wall signs on the water frontage are mounted on the first level building eyebrow to more closely match the building's architecture.

5. Sign Type 7 (Restaurant Secondary Sign) is mounted on the waterfront facade facing Newport Harbor. The proposed sign area and placement improves visibility for this primary tenant as patrons approach the building via boat.

Standard:

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

Facts in Support of Standard:

1. The program does not authorize the use of any prohibited sign types.

Standard:

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

Facts in Support of Standard:

1. The program contains no regulations affecting sign message or content.

Modification Permit

Pursuant to Section 20.42.110 of the Newport Beach Municipal Code, deviations from sign standards for height, location, number, and area are subject to the approval of a modification permit. In accordance with Section 20.52.050 (Modification Permits) of the Newport Beach Municipal Code, 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 pylon sign (Sign Type 11) as designed is compatible with the existing development in the neighborhood because there are several other large restaurant and commercial

pylon signs located along West Coast Highway that employ the use of similar signage and logos for identification purposes.

2. The proposed pylon sign location and leg height will be appropriately scaled to the building given the width of the property frontage and size of the building fascia.
3. The increased leg height of the pylon sign (Sign Type 11) is compatible within the overall massing and bulk of the existing building. The existing stanchions once supported a taller sign at this location and the sign in this location was not detrimental to the surrounding development. The increased leg height is compatible as they promote increased visibility for pedestrians and vehicles along West Coast Highway.
4. The request for an increased pylon sign width will be incompatible with other pylon signs located along the West Coast Highway frontage and thus should be modified to comply with the maximum 6-foot width.

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 pylon sign (Sign Type 11) serves as the main identification for motorists travelling on West Coast Highway. A commercial building located at 2751 West Coast Highway obstructs the visibility of the subject property, which makes the proposed pylon sign location necessary to assist motorists in identifying the restaurant.
2. The building façade on the property is placed approximately 100 feet back from the street frontage. The linear street frontage measures 118 feet. Given the width of the property frontage and the distance of the building from the street frontage, the location and size of a pylon sign (Sign Type 11) at the proposed location is appropriate. The placement of existing pylon signs on adjacent properties limits the ability to place the pylon sign at a distance of 50 feet from adjacent signs without relocating the sign and reconfiguring the parking layout on-site and losing a parking space.

The requested sign width of 10 feet is not necessary for the pylon sign (Sign Type 11) and one of the existing pole stanchions can be replaced to accommodate a narrower sign width that complies with the Zoning Code maximum width of 6 feet.

3. In order to utilize the existing pole stanchions in place and comply with the maximum sign area of 75 square feet, the pylon legs as designed are taller than the maximum of 6 feet identified in the Zoning Code. Each pole will be wrapped with an aluminum pole cover so that the leg width will comply with the leg width and proportion standards for a pylon sign. The pylon sign will comply with the 20-foot height limit and the increased leg height allows for visibility above the nearby pylon sign located at Billy's By the Beach (2751 West Coast Highway). The proposed design with 15-foot high pylon legs will increase visibility to vehicular traffic traveling in both directions on West Coast Highway and at the site's driveway.

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. Site constraints including the existing parking layout, utilities infrastructure, vehicle sight distance, and existing pole stanchions in place along the West Coast Highway frontage are practical difficulties associated with the property.
2. The purpose and intent of the sign regulations is to provide users adequate identification while preserving and enhancing the community's appearance. The proposed design ensures that signage does not overwhelm the building façade and create sign clutter along the West Coast Highway frontage as only one pylon sign is proposed for the subject property, consistent with the Zoning Code development standards.
3. The proposed pylon sign does not interfere with the purpose and intent of the Zoning Code as it provides for adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The development standard deviations address the practical difficulty for motorists struggling to identify the restaurant location while traveling on West Coast Highway.
4. One of the existing pylon stanchions for Sign Type 11 can be replaced to accommodate a code compliant pylon sign width of 6 feet.

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.*

Facts in Support of Finding:

1. The requested pylon sign location and leg height are in scale with similarly placed signs in the surrounding area and will not be detrimental to surrounding owners and occupants, the neighborhood, or the general public.
2. Due to the placement of the building 100 feet from the street, the pylon sign location and leg height are necessary to provide identification for the subject property for passing motorists. The reconfiguration of the parking layout and utilities along the street frontage would be necessary to accommodate a different sign location and would require considerable additional cost to develop a new pylon sign for a different location.

3. A reduced pylon leg height design would result in reduced visibility for motorists and visibility of existing signage on adjacent properties.
4. The existing pylon stanchions can be modified or replaced to provide a code compliant pylon sign width of 6 feet maximum.

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. Project approval will not result in a change in intensity or density of the existing restaurants, marine serving, and office uses.
2. The size of the sign is within scale of the signs in the surrounding area and will not adversely affect or be detrimental to persons, property, or improvements in the surrounding neighborhood.
3. Compliance with the Municipal Code and the attached conditions of approval is required and will further ensure that the proposed use will not be detrimental.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This resolution supersedes Comprehensive Sign Program No. CS2015-011 (PA2015-162), which upon vesting of the rights authorized by this application, shall become null and void. All relevant conditions of approval have been carried over.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JUNE, 2016.



Brenda Wisneski, AICP, Zoning Administrator

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

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. Comprehensive Sign Program No. CS2016-006 and Modification Permit No. MD2016-007 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 Newport Beach Municipal Code, unless an extension is otherwise granted.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Comprehensive Sign Program and Modification Permit.
5. This Comprehensive Sign Program 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.
6. Locations of the signs are limited to the designated areas and shall comply with the limitations specified in the Sign Program Matrix included in Attachment No. ZA 3.
7. All signs must be maintained in accordance with Section 20.42.170 (Maintenance Requirements) of the Newport Beach Municipal Code.
8. A building permit shall be obtained prior to commencement of the construction and/or installation of the signs.
9. The signs visual character and mounting heights shall comply with the California Building Code.
10. The pylon sign (Sign Type 11) shall be modified to comply with a 6-foot maximum width.
11. The pylon sign (Sign Type 11) shall maintain a 5-foot setback from the West Coast Highway right-of-way.
12. 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 Ritz Pylon Sign including, but not limited to, Comprehensive Sign Program No. CS2016-006 and Modification Permit No. MD2016-007 (PA2016-073). 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.

RESOLUTION NO. ZA2016-040

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR SITE DEVELOPMENT REVIEW NO. SD2015-008 FOR THE BIG CANYON COUNTRY CLUB PERMANENT MAINTENANCE FACILITY LOCATED AT 1850 JAMBOREE ROAD AND LIMITED TERM PERMIT NO. XP2016-002 FOR A TEMPORARY MAINTENANCE FACILITY LOCATED AT 1901 MACARTHUR BOULEVARD (PA2015-212)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeff Beardsley on behalf of the Big Canyon Country Club, with respect to properties located at 1850 Jamboree Road and 1901 MacArthur Boulevard, and legally described as Portion of Block 56 of Tract No. 361 and Lot 2 of Tract No. 12105, respectively, requesting approval of a minor site development review and a limited term permit.
2. The applicant proposes the construction of a new 19,305-square-foot, two-story golf course maintenance facility to replace the existing facility that serves the Big Canyon Country Club. The facility will include a 35-space surface parking lot, storage areas for equipment, tools, and supplies, a washout area, and employee office areas. Also included in the request is a limited term permit for greater than 90 days to construct and operate a temporary maintenance facility at 1901 MacArthur Boulevard for use during the construction of the permanent facility.
3. The General Plan Land Use Element categories for the properties are Parks and Recreation (PR) for the permanent facility location and Open Space (OS) for the temporary facility location. The Zoning District is Big Canyon Planned Community (PC-8).
4. The subject properties are not located within the coastal zone.
5. A public hearing was held on June 30, 2016, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15332 under Class 32 (In-Fill Development) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.

2. In this case, both components of the project are consistent with the General Plan Land Use Element categories of Parks and Recreation (PR) and Open Space (OS) as well as the Big Canyon Planned Community (PC-8) Zoning District. A golf course is an allowed use in either land use category designation as well as in PC-8. Maintenance of the golf course is accessory and would also be allowed. The aggregate project site area is less than five acres and both lots are generally surrounded by a golf course, highly traveled streets and single-family residential development. The lots are substantially developed and are not within environmentally sensitive areas. The proposed project was reviewed by the Public Works Department and concerns with traffic were not found. Further, a traffic study was not required under the City's Traffic Phasing Ordinance (TPO). No significant effects are anticipated for either lot with regard to noise or air quality as the permanent maintenance facility is replacing and improving the existing permanent maintenance facility and the temporary facility will be in place for a limited duration on a previously developed site. A preliminary water quality management plan (WQMP) was reviewed and approved for both lots to address water quality issues. The project was also reviewed by the Public Works and Fire Departments and it was determined both lots maintain adequate access to both utilities and public services.

SECTION 3. REQUIRED FINDINGS.

Site Development Review – Permanent Maintenance Facility

In accordance with Section 20.52.080.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *Allowed within the subject zoning district.*

Facts in Support of Finding:

1. The subject property is located within the Golf Course subarea of the Big Canyon Planned Community (PC-8) Zoning District, which principally allows a golf course, tennis courts, practice golf range, clubhouse and ancillary uses and related facilities accessory to any of the aforementioned permitted uses. The proposed permanent maintenance facility is replacing and improving an existing maintenance facility.
2. The maintenance facility is a related accessory facility to the golf course operation and is, therefore, a permitted use in this zoning district.

Finding:

- B. *In compliance with all of the applicable criteria identified subsection [20.52.080](C)(2)(c):*

- a. Compliance with this Section, the General Plan, the Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure;
- b. The efficient arrangement of structures on the site and the harmonious relationship of the structures to one another and to other adjacent development; and whether the relationship is based on standards of good design;
- c. The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas;
- d. The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces;
- e. The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials; and
- f. The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protections).

Facts in Support of Finding:

1. The Land Use Element of the General Plan designates the subject property as Parks and Recreation (PR), which applies to land used or proposed for active public or private recreational use. Permitted uses include parks (both active and passive), golf courses, marina support facilities, aquatic facilities, tennis clubs and courts, private recreation and similar facilities. The proposed maintenance facility is consistent with the General Plan designation in that it is accessory and integral to the golf course use.
3. The proposed development complies with the development standards of the Golf Course subarea of the Big Canyon Planned Community (PC-8) Zoning District. The proposed building is approximately 35 feet tall and well within the maximum allowance of 50 feet. The two-story portion of the building is also set back approximately 113 feet from the front property line on Jamboree Road. The increased setback coupled with the larger landscaping area with tall plantings will help screen the facility and keep it from dominating the site as viewed from the street.
4. The proposed development will incorporate consistent architectural design such that all structures of the maintenance facility are unified. Architectural treatment will harmonize with the existing water pump station at the forefront of the property.
5. Thirty-five parking spaces are proposed on the project site and will adequately serve the existing employees working at the facility. No increases in the number of employees are anticipated. Areas for the loading and unloading of materials and supplies for golf course maintenance are provided within the proposed site plan.
6. The proposed site layout provides efficient vehicular access from Jamboree Road and maintains an existing access driveway located behind the subject property leading into the private golf course area thereby avoiding the need for maintenance vehicles to use public streets. The parking lot and site layout allow vehicles sufficient space to turn around on-site and avoid the need to create an additional driveway or back out onto

Jamboree Road. Pedestrian access to the site is available from Jamboree Road from an existing public sidewalk as well as from the rear outlet into the golf course.

7. The Public Works Department has reviewed and approved the site plan, proposed improvements, parking configuration, and access driveway subject to the conditions of approval.
8. The increased setback and site layout provide for additional landscaping opportunities immediately adjacent to the street. As conditioned, all landscaping will comply with Newport Beach Municipal Code Chapter 14.17 (Water-Efficient Landscaping).
9. The subject property is not located at or near a public view point or corridor as identified in the General Plan Figure NR3 (Coastal Views); and therefore, is in compliance with Section 20.30.100 (Public View Protections).

Finding:

- C. *Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.*

Facts in Support of Finding:

1. A similar maintenance facility has existed at this location since 1971. The proposed maintenance facility will replace and improve the existing facility such that it will better serve the maintenance demands of the golf course and its staff. The amount of traffic to and from the site will not change given that the golf course is not expanding in terms of area or number of holes.
2. The proposed development will comply with all Building, Public Works, and Fire Codes. The project will also comply with all City ordinances and conditions of approval.
3. The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment.
4. The increased setback coupled with the larger landscaping area with tall plantings will help screen the facility and keep it from dominating the site as viewed from the street. Reference additional facts in support of this finding beneath Finding B above.

Limited Term Permit – Temporary Maintenance Facility

In accordance with Section 20.52.040.G (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The operation of the requested 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 property has previously been utilized as a staging and storage area for various golf course improvement projects in the proximate area and this activity has not proven detrimental.
2. Internal access will be provided from the temporary facility to the golf course such that maintenance vehicles will not need to access public streets. Employees arrive at the site at 6:00 a.m. and leave by approximately 2:30 p.m., which is outside of peak hours when traffic on MacArthur Boulevard is greatest.
3. As proposed, minor grading of the site will allow for the temporary facility to be located at a greater distance from MacArthur Boulevard. The setback and existing sloped areas and landscaping will reduce visibility of the site from the public street.
4. There are no conflicting temporary uses taking place on this portion of the property currently and any future use will be subject to review and approval by the Planning Division. The temporary maintenance facility will be in use only during construction of the permanent facility, which is expected to be completed within 11 months.

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 subject lot is approximately 1.33 acres in size. Based upon the site plan, there is adequate area to accommodate the proposed limited duration use as a temporary facility with temporary modular buildings and a surface parking area with approximately 47 spaces. The parking lot and site layout allow vehicles sufficient space to turn around on-site and avoid the need to create an additional driveway or back out onto MacArthur Boulevard. The site is also large enough to provide an approximate 100-foot setback to the temporary buildings from MacArthur Boulevard as well as the vehicle access gate allowing vehicles to pull off the road to access the site.

2. The lot is bound by MacArthur Boulevard to the east and the Big Canyon Country Club golf course to the west, which will both serve as a buffer between the nearby residential properties.
3. The lot is abutting a property with a medium-density residential development to the north within the Big Canyon Planned Community (PC-8) Zoning District. The temporary use, however, will maintain a distance of at least 500 feet from residential uses in this development.

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 subject lot has one direct driveway approach taken from southbound MacArthur Boulevard. Internal access is provided to the golf course by way of an access road towards the rear of the property.
2. The vehicles would typically access the site early morning prior to peak hour and mid-late afternoon prior to peak hour; therefore, there is no traffic issue anticipated.
3. The limited duration use is a temporary maintenance facility for the Big Canyon Country Club golf course. All maintenance activities will occur within the golf course area; therefore, heavy entering-and-exiting traffic is not anticipated.
4. The Public Works and Fire Departments have reviewed the site plan for adequate circulation and access for emergency services vehicles.

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.*

Facts in Support of Finding:

1. The proposed limited duration use includes a parking area for approximately 47 vehicles on-site, which is anticipated to adequately serve the temporary maintenance facility and its employees.

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 Open Space (OS) designation of the Land Use Element of the General Plan is intended to provide for areas for a range of public and private uses to protect, maintain, and enhance the community's natural resources. The site is already developed. Limited duration use as a temporary maintenance facility will not have a negative impact on natural resources nor will it compromise the purpose of the OS designation.
2. The subject property is not identified as being within any specific subarea of the Big Canyon Planned Community (PC-8) Zoning District; however, it is immediately adjacent to the Golf Course subarea and has generally served as a supporting lot in some capacity. The proposed limited duration use is consistent with the previous use of the site and is also in furtherance of the purpose of this zoning district and its subareas.
3. Pursuant to Zoning Code Section 20.52.040.D (Allowed Limited Duration Uses), limited duration work trailers are permitted with approval of a limited term permit and in conjunction with the issuance of a valid building permit for the construction of a permanent commercial, industrial and mixed-use structure. The proposed temporary facility will coincide with the development of the permanent facility at the Jamboree Road property.
4. The site is not located within a specific plan area.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Site Development Review No. SD2015-008 and Limited Term Permit No. XP2016-002, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JUNE, 2016.

Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. 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 Limited Term Permit.
4. This approval may be modified or revoked by the Zoning Administrator if determined 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.
5. 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 the processing of a new site development review.
6. 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.
7. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Site Development Review file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Site Development Review and shall highlight the approved elements such that they are readily discernible from other elements of the plans.
8. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan prepared by a licensed landscape architect. These plans shall incorporate drought tolerant plantings and water efficient irrigation practices, and the plans shall be approved by the Planning Division.
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. 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.
11. Prior to the issuance of building permits, the applicant shall prepare a photometric study in conjunction with a final lighting plan for approval by the Planning Division. The survey shall show that lighting values are “1” or less at all property lines.
12. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time periods unless the ambient noise level is higher:

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

13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
14. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts hours of noise-generating construction activities that produce noise to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.
15. No outside paging system shall be utilized in conjunction with this establishment.
16. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.

17. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
18. The 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).
19. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 9:00 a.m., daily, unless otherwise approved by the Director of Community Development.
20. Storage outside of the buildings shall be prohibited, with the exception of the required trash container enclosure.
21. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 (Planning and Zoning) of the Newport Beach Municipal Code.
22. This Limited Term Permit shall expire 12 months from the issuance of building permits.
23. 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 Big Canyon Country Club Maintenance Facility including, but not limited to Minor Site Development Review No. SD2015-008 and Limited Term Permit No. XP2016-002. 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.

Fire Department

24. Fire hydrants shall be provided and located within 400 feet of all portions of the building. The 400 feet shall be measured by an approved route around the exterior of the building pursuant to California Fire Code Section 507.1.

25. Fire access shall be provided and shall extend to within 150 feet of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building pursuant to California Fire Code Section 503.1.1.
26. Fuel storage relocation shall require a plan review from Orange County Environmental Health.
27. Dumpsters and trash containers shall be kept a minimum of five feet from the building pursuant to California Fire Code Section 304.3.3.
28. Knox boxes shall be installed for buildings and gates and their locations shall be subject to review by the Fire Department.
29. All chemical and oil drum storage shall comply with California Fire Code Chapter 50 (Hazardous Materials).
30. Any and all cart and battery recharging shall meet ventilation requirements pursuant to California Fire Code Section 309.3 as well as Section 608 requirements for construction and spill control.
31. General and equipment storage shall meet the storage requirements pursuant to California Fire Code Section 315.

Building Division

32. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
33. The applicant shall employ the following best available control measures ("BACMs") to reduce construction-related air quality impacts:

Dust Control

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

Emissions

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

Off-Site Impacts

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

Fill Placement

- The number and type of equipment for dirt pushing will be limited on any day to ensure that SCAQMD significance thresholds are not exceeded.
- Maintain and utilize a continuous water application system during earth placement and compaction to achieve a 10 percent soil moisture content in the top six-inch surface layer, subject to review/discretion of the geotechnical engineer.

Public Works Department

34. All parking lot improvements shall be per City Standards STD-805-L-(A & B).
35. Driveways shall be designed to comply with City Standard STD-110-L.
36. All improvements shall be constructed as required by Ordinance and the Public Works Department.

RESOLUTION NO. HO2016-002

A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH APPROVING REASONABLE ACCOMMODATION NO. RA2016-001 FOR THE PROPERTY LOCATED AT 2294 CHANNEL ROAD (PA2016-075)

THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Charles and Marjorie Ryffel, with respect to property located at 2294 Channel Road, and legally described as Tract 518, Lot 1, Block P, requesting approval of a reasonable accommodation.
2. The applicant has submitted a reasonable accommodation application requesting relief from the Newport Beach Municipal Code (NBMC) Section 20.18.030 (Residential Zoning Districts General Development Standards) to allow an elevator to encroach within the required side setback area and to exceed the height limit of an existing single-family home. The proposed elevator is approximately 6 feet 6 inches wide, encroaches into the required side setback area (minimum 4 feet required, 3 feet 6 inches proposed), and exceeds the allowed height for flat roofs (maximum 24 feet permitted, 31 feet 11 inches proposed). The elevator is requested to provide access to the residence for an individual with a disability. The existing residence is nonconforming related to the side setback and height, providing a side setback of 3 feet and a maximum height of 37 feet 2 inches.
3. The subject property is located within the R-1 (Single-Unit Residential) Zoning District and the General Plan Land Use Element category is RS-D (Single-Unit Residential Detached).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single-Unit Residential Detached).
5. Chapter 20.52.070 (Reasonable Accommodations) of the Newport Beach Municipal Code (NBMC) provides reasonable accommodations in the City's zoning and land use regulations, policies, and practices when needed to provide an individual with any disability an equal opportunity to use and enjoy a dwelling.
6. A public hearing was held on June 27, 2016 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Hearing Officer at this meeting.
7. The hearing was presided over by William B. Conners, Municipal Law Consultant, Hearing Officer for the City of Newport Beach.

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, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The project involves a minor addition and alterations to an existing single-family residence involving the addition of an elevator within the side setback area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.070(D)(2) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- i. That the requested accommodation is requested by or on behalf of one or more individuals with a disability protected under the Fair Housing Laws.*

Facts in Support of Finding:

1. A letter from Tahseen Mozaffar, MD FAAN has been submitted by the applicant supporting this claim and the need for convenient elevator access. The statement indicates that the property will be occupied by an individual with a disability that results in progressive weakness. The statement also indicates that the installation of an elevator is necessary for the individual to access the upper levels of the home, as a stair lift/chair is no longer providing sufficient access.

Finding:

- ii. That the requested accommodation is necessary to provide one or more individuals with a disability an equal opportunity to use and enjoy a dwelling.*

Facts in Support of Finding:

1. The elevator within the side setback is needed to gain reasonable access to the upper levels of the residence for a person with a disability to more fully enjoy the use of the home. Bedrooms and recreation areas are located on the upper levels.
2. In a letter dated April 27, 2016 by Pete Laux of Designdlaux, the project designer states that alternative elevator locations within the home are infeasible due to the age of the home and the unknown structural alterations that would be necessary.
3. With consideration of the factors provided by NBMC Section 20.52.070(D)(3-4), the requested reasonable accommodation is necessary to provide the disabled

individual an equal opportunity to use and enjoy a dwelling. If the requested accommodation is granted, the disabled person will be able to access the upper levels of the residence, thereby enhancing their quality of life. Any modifications necessary to make the upper levels accessible cannot be accommodated within the existing residence without more significant disruption to the interior of the home. Approval of the accommodation will not alter the character of the neighborhood, nor will it increase traffic or affect parking.

Finding:

- iii. *That the requested accommodation will not impose an undue financial or administrative burden on the City as “undue financial or administrative burden” is defined in Fair Housing Laws and interpretive case law.*

Facts in Support of Finding:

1. Allowing the construction of an elevator within the side setback and exceeding maximum height would not impose an undue financial or administrative burden on the City. The administrative costs of processing the building permit will be offset by normal building permit fees.

Finding:

- iv. *That the requested accommodation will not result in a fundamental alteration in the nature of the City’s zoning program, as “fundamental alteration” is defined in Fair Housing Laws and interpretive case law.*

Facts in Support of Finding:

1. The proposed accommodation would not result in any fundamental alterations to the character and use of home or the neighborhood. The existing home provides nonconforming side setbacks, and the proposed elevator will provide a greater setback than what currently exists. Additionally, the existing residence is nonconforming related to height, and the proposed elevator will have a maximum height below what currently exists.
2. The proposed elevator would not intensify the existing single-unit residential use and therefore would not undermine the express purpose or land use identified by the City’s General Plan.

Finding:

- v. *That the requested accommodation will not, under specific facts of the case, result in a direct threat to the health or safety of other individuals or substantial physical damage to the property of others.*

Facts in Support of Finding:

1. The elevator would be constructed in accordance with the required Building and Safety Codes; therefore, the proposed project would not pose a threat to the health or safety of other individuals or substantial physical damage to the property of others. The approval of this Reasonable Accommodation is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.
2. The proposed deviations from development standards, including encroaching into the side setback area and exceeding the height limit, are less than the existing setback and building height nonconformities. The structure has not proven to be detrimental to the occupants of the property, nearby properties, neighborhood, or City.

Finding:

- vi. *For housing located in the coastal zone, a request for reasonable accommodation under this section may be approved by the City if it is consistent with the findings provided in subsection (D)(2) of this section; with Chapter 3 of the California Coastal Act of 1976; with the Interpretative Guidelines for Coastal Planning and Permits established by the California Coastal Commission dated February 11, 1977, and any subsequent amendments, under the Local Coastal Program.*

Facts in Support of Finding:

1. In accordance with Section 30212 of the California Coastal Act, the proposed modifications to the residence are not classified as new development and are exempt from the California Coastal Act requirement for a Coastal Development Permit since the modifications to the existing residence do not result an increase of gross floor area, height, or bulk of the structure by more than 10 percent.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. RA2016-001 (PA2016-075), subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal is filed with the City Clerk in accordance with the provisions of Title 20, Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 28TH DAY OF JUNE, 2016.

/s/ William B. Conners

William B. Conners
Hearing Officer for the City of Newport Beach

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. 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 recently, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
3. The exterior wall adjacent to property line must be one-hour construction per table R302.1 (1) California Building Code (CBC).
4. The overhang construction adjacent to property line must be one-hour rated construction per table R3002.1 (1) CBC.
5. The reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least one hundred eighty (180) consecutive days.
6. Because of the substantial cost of this improvement, and because the elevator can effectively be used by future owners of the property and are physically integrated into the residential structure and cannot be easily removed or altered to make the residence comply with the Zoning Code, the reasonable accommodation shall remain indefinitely unless the Director determines that the modifications authorized by this reasonable accommodation application are subject to removal under the NBMC and it is appropriate to require such removal. It is the intent of the Hearing Officer based on the findings of this case that the elevator remain indefinitely.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. 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 Use Permit.
9. 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.
10. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.

11. 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 2294 Channel Road Reasonable Accommodation including, but not limited to, Reasonable Accommodation No. RA2016-001 (PA2016-075). 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.