



**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 August 12, 2016

**ZONING ADMINISTRATOR ACTIONS
AUGUST 11, 2016**

- Item 1: 2312 Laurel Place Modification Permit No. MD2016-008 (PA2016-086)
Site Address: 2312 Laurel Place
- Action: Approved by Resolution No. ZA2016-044 Council District 2
- Item 2: Cypress Lot Merger No. LM2016-003 (PA2016-079)
Site Address: 20101 Cypress Street and 20111 Birch Street
- Action: Approved by Resolution No. ZA2016-045 Council District 3
- Item 3: CHALK of Newport Beach Minor Use Permit No. UP2016-017 (PA2016-072)
Site Address: 2500 West Coast Highway
- Action: Approved by Resolution No. ZA2016-046 Council District 3

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. ZA2016-044

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2016-008 FOR A 111-PERCENT ADDITION TO AN EXISTING NONCONFORMING SINGLE-UNIT RESIDENCE LOCATED AT 2312 LAUREL PLACE (PA2016-086)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Foothill Project Management, Inc. (Corrie Kates), with respect to property located at 2312 Laurel Place, and legally described as Lot 9 in Tract 1188 requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow a 111-percent addition to an existing single-family residence with nonconforming parking. The Zoning Code limits additions to 10 percent of the existing gross floor area when the required parking dimensions are not met. The nonconforming garage provides an interior width of 19 feet 6 inches and a depth of 19 feet 5 inches, where a minimum 20-foot by 20-foot interior dimension is required.
3. The subject property is located within the Single-Unit Residential (R-1-6000) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on August 11, 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. This exemption includes additions up to 10,000 square feet where public services and utilities are available and the area is not considered environmentally sensitive. The proposed project is a 2,058-square-foot addition to an existing single-family residence in a developed neighborhood and is not within an environmentally sensitive area.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (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 addition would increase the dwelling size by 2,058 square feet to allow for a new dining room, expanded family room, and new master bedroom suite on the first floor, as well as two new bedrooms on the second floor. The proposed addition will comply with all applicable development standards, including height, setbacks, and site coverage. The proposed addition will not create the need for a third parking space and will not intensify the nonconforming parking.
2. The proposed addition will increase the total floor area of the property, including the garage, to approximately 3,916 square feet, significantly below the maximum allowable floor area of 10,773 square feet.
3. Laurel Place consists of single-story and two-story single-family residences. The 685-square-foot second story addition will not exceed the maximum 29-foot height limit for the Zoning District and is consistent with the design and height of other properties in the neighborhood.
4. The existing development on the property is a single-story, single-family dwelling with a detached two-car garage and no change to the density would result.

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 existing two-car garage was compliant with the setback standards of the Orange County Zoning Code when it was constructed in 1948. When the lot was annexed from the County in 1956, the garage became legal, nonconforming due to the encroachment into the rear setback. The interior dimensions of the existing two-car garage were compliant with the Newport Beach Zoning Code at the time of annexation in 1956. As a result of amendments to the Zoning Code in 2010, the two-car garage is now substandard in size, and is therefore legal nonconforming.

2. A modification permit is necessary because the garage is a nonconforming accessory structure due to its encroachments into the side and rear setbacks and cannot be expanded in size. Section 20.38.040 (C) of the Zoning Code states that structural alterations to nonconforming accessory structures are not allowed. Therefore, in order for the garage to be brought to conformance with current parking requirements, it would have to be completely demolished and relocated to comply with the setbacks.
3. The relocation of the garage is difficult due to the unique orientation between the residence and the garage. The relocation of the garage to comply with current setbacks would significantly reduce the turning radius in the open space between the garage and existing residence. This would make it difficult for vehicles to make a proper turnout and force vehicles to back up in reverse towards the street. The existing location of the garage has a turning radius large enough for a proper turnout and allows for vehicles to safely drive in a forward direction towards the street.
4. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking of two (2) vehicles. Additionally, the long driveway in front of the garage allows for additional on-site parking spaces.

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. The proposed addition is for the principal structure, which is detached from the existing garage, and does not directly result in the need to modify the garage located at the rear of the lot.
2. Due to the nonconforming status of the accessory garage structure, increasing the width and depth of the garage to dimensions of 20 feet wide and 20 feet deep to satisfy current parking size requirements would require a complete demolition of the existing garage. This will result in a significant increase in the scope of work in order to increase the garage width by six inches and the garage depth by seven inches.
3. The existing garage provides two (2) useable garage spaces with dimensions only slightly less than the requirement and fulfills the intent of the Zoning Code by providing adequate parking on-site. The driveway is approximately 95 feet deep by 8 feet 7 inches wide, which serves as additional on-site parking spaces. Approval of the Modification Permit allows the applicant to continue using the existing two-

car garage, which has not been detrimental to the occupants or neighbors of the dwelling, and allows for a reasonable size addition to the residence.

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. An alternative to the Modification Permit is to bring the garage into compliance with the current Zoning Code requirements. Due to the encroachment into the setbacks as a result of the current Zoning Code, the existing garage is a nonconforming accessory structure. Structural alteration of nonconforming accessory structures is not allowed per Zoning Code Section 20.38.040 (C). Therefore, the alternative to the Modification Permit is to completely demolish the existing garage and relocate it to comply with current setback standards. This would significantly increase the scope and cost of the project and would result in a potential detriment to the applicant and neighbors by reducing the turning radius between the garage and existing residence and forcing vehicles to back out of the long driveway.
2. The applicant may reduce the addition to the residence to not exceed 10 percent of the existing floor area of the structure to comply with the requirements of the Zoning Code. Given the intent of the project is to provide a new dining room, expanded family room, new master bedroom suite, and two new bedrooms on the second floor, a redesign to reduce the size of the addition will significantly impact the objectives of the project and would not provide similar benefits to the applicant.

Finding:

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

Facts in Support of Finding:

1. The proposed two-story addition would maintain all required setback standards and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood.
2. The existing nonconforming garage has not proven to be detrimental to the occupants of the property, nearby properties, the neighborhood, or the City and is adequate in width to park two (2) vehicles. Additionally, the long driveway in front of the garage allows for additional on-site parking spaces.

3. The proposed addition will result in a floor area total that is less than the maximum allowed by Zoning Code.
4. The approval of this Modification Permit is conditioned as such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2016-008, 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 11th DAY OF AUGUST, 2016.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (19 feet 6 inches wide by 19 feet 5 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. 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.
5. 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.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current property owner or the leasing agent.
7. All damaged/broken curb, gutter, sidewalk, and driveway approach along Laurel Place frontage shall be reconstructed.
8. A new sewer clean out on existing sewer lateral per city standard STD-406-L shall be installed.
9. 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.
10. 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 Stern Modification Permit including, but not limited

to, Modification Permit No. MD2016-008 (PA2016-086). 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. ZA2016-045

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT MERGER NO. LM2016-003, WAIVING THE PARCEL MAP REQUIREMENT, AND COMBINING TWO PARCELS INTO A SINGLE PARCEL FOR A SINGLE FAMILY DEVELOPMENT LOCATED AT 20101 CYPRESS STREET AND 20111 BIRCH STREET (PA2016-079)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by West Desert Properties/Kelly Bangert, on behalf of Kelly Bangert, with respect to property located at 20101 Cypress Street and 20111 Birch Street, and legally described as the northeasterly 66 feet of Lot 147 together with the northwesterly 100 feet of said Lot 147, as shown on a map recorded in Book 21, Page 25, of Miscellaneous Maps, Records of Orange County requesting approval of a lot merger.
2. The applicant proposes a lot merger and requests to waive the parcel map requirement for two contiguous properties under common ownership. The merger would combine two legal lots into a single parcel.
3. The subject properties are located within the Residential Equestrian area of the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is Single Unit Residential Detached (RS-D).
4. The subject properties are not located within the coastal zone.
5. A public hearing was held on August 11, 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 15315, Article 19 of Chapter 3), Guidelines for Implementation of the California Environmental Quality Act under Class 15 (Minor Land Divisions).
2. The Class 15 exemption includes the division of property in urbanized areas zoned for residential, commercial, or industrial use into four (4) or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcel to local

standards are available, the parcel was not involved in a division of a larger parcel within the previous two (2) years, and the parcel does not have an average slope greater than 20 percent. This exemption includes a minor lot merger not resulting in the creation of any new parcel that complies with the conditions specified above.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 19.12.070A (Required Findings for Approval) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. Approval of the merger will not, under the circumstances of this particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or be detrimental or injurious to property and improvements in the neighborhood or the general welfare of the City, and further that the proposed lot merger is consistent with the legislative intent of Title 19.

Facts in Support of Finding:

1. The subject property was developed as a single site with a single-unit dwelling constructed on 20101 Cypress Street and a detached garage constructed on 20111 Birch Street. Currently there is a permit in process for a new single family home and detached garage which requires approval of the lot merger.
2. The lot merger is consistent with the purpose and intent of Title 19 (Subdivisions). The proposed merger will protect land owners and surrounding residents, and will preserve the public health, safety, and general welfare of the City.
3. Building alterations and improvements are required to comply with applicable Municipal Code regulations and City policies.

Finding:

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

Facts in Support of Finding:

1. The properties at 20101 Cypress Street and 20111 Birch Street as described in Section 1 of this Resolution are under common fee ownership by Kelly Bangert.

Finding:

C. The lots, as merged, will be consistent or will be more closely compatible with the applicable zoning regulations and will be consistent with other regulations relating to the

subject property including, but not limited to, the General Plan and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. The merged lot will remain in the Residential Equestrian (REQ) area of the Santa Ana Heights Specific Plan Zoning District, which is consistent with the surrounding area. This area is intended to provide for the development and maintenance of a single-family residential neighborhood in conjunction with limited equestrian uses.
2. The lot at 20101 Cypress Street complies with Zoning Code required Site Development Standards (20.90.060.F) relating to lot area, however the lot at 20111 Birch Street does not. The proposed merged lot will be 26,438 square feet in area and will meet the required minimum lot area of 19,800 square feet.
3. The Land Use Element of the General Plan designates the subject site as Single-Unit Residential Detached (RS-D), which applies to a range of single-family residential dwelling units. The land use will remain the same and the merger is consistent with the land use designation of the General Plan.

Finding:

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

Facts in Support of Finding:

1. Neither of the merged parcels, nor the adjoining parcels, will be deprived of legal access as a result of the merger. Access to both properties is provided from the front of the 20101 Cypress Street property along Cypress Street and will remain unchanged.

Finding:

E. The lots, as merged, will be consistent with the pattern of development nearby and will not result in a lot width, depth or orientation, or development site that is incompatible with nearby lots.

Facts in Support of Finding:

1. The orientation and access to the merged parcel at 20101 Cypress Street will remain from Cypress Street, a public road.
2. Properties along Cypress Street consist of varying shapes and sizes. Although the proposed lot merger will create a larger lot, it will not create an excessively large lot in comparison to many existing lots. The width of the Cypress Street frontage will

remain unchanged and is consistent with the lot width of other properties on Cypress Street.

Waiver of Parcel Map

In accordance with Section 19.08.030.A.3 (Waiver of Parcel Map Requirement) of the Newport Beach Municipal Code, the Zoning Administrator may approve a waiver of the parcel map requirement in cases where no more than three (3) parcels are eliminated. The following finding and facts in support of such finding are set forth:

Finding:

F. That the proposed division of land complies with requirements as to area, improvement and design, flood water drainage control, appropriate improved public roads and property access, sanitary disposal facilities, water supply availability, environmental protection, and other applicable requirements of Title 19, the Zoning Code, the General Plan, and any applicable Coastal Plan or Specific Plan.

Facts in Support of Finding:

1. Future improvements on the site will be required to comply with the development standards of the Newport Beach Municipal Code and General Plan.
2. The proposed lot merger combines the properties into a single parcel of land and does not result in the elimination of more than three (3) parcels.
3. Approval of the lot merger would remove the existing interior lot line and allow the property to be used as a single site. The lot merger in and of itself would not change the land use, density or intensity at the site. The proposed merged parcel would comply with all design standards and improvements required for new subdivisions by Title 19, the Zoning Code, and General Plan.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Merger No. LM2016-003 (PA2016-079), 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 11TH DAY OF AUGUST, 2016.



Patrick J. Alford, Zoning Administrator

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

1. Lot Merger No. LM2016-003 shall expire unless exercised within twenty-four (24) months from the date of approval as specified in Section 20.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.
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 map shall be submitted to the Public Works Department for Final Map Review and Approval. All applicable fees shall be paid.
4. Prior to the issuance of building permits for construction to cross the existing interior lot line between the two (2) parcels to be merged, recordation of the lot merger documents with the County Recorder shall be required.
5. 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 Cypress Lot Merger including, but not limited to, Lot Merger No. LM2016-003 (PA2016-079). 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. ZA2016-046

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2016-017 FOR A NEW PRESCHOOL LOCATED AT 2500 WEST COAST HIGHWAY (PA2016-072)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by CHALK of Newport Beach, LLC, with respect to property located at 2500 West Coast Highway, and legally described as Lot 2 of Parcel Map 90-173, requesting approval of a minor use permit.
2. The applicant proposes a minor use permit to allow a day care center/preschool with a capacity of 72 students and 10 staff members. Proposed hours of operation are 7:30 a.m. to 5:30 p.m., Monday through Friday. The gross floor area of the existing building is 5,035 square feet with 14 proposed parking spaces and an approximately 6,600 square-foot outdoor playground. Vehicular access to the property, including drop-off and pick-up of children, will be from the alley at the rear of the property.
3. The subject property is located within the Mixed Mariners' Mile (MU-MM) Zoning District and the General Plan Land Use Element category is Mixed Use Water Horizontal (MU-H1).
4. The subject property is located within the coastal zone and designated as Mixed Use Horizontal (MU-H).
5. A public hearing was held on August 11, 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 interior improvements to convert a boat retail space into a day care facility and involves no 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 General Plan Land Use Designation for the subject property is Mixed Use Horizontal (MU-H1), which permits marine-related and highway-oriented general commercial uses in accordance with CM (Recreational and Marine Commercial) and CG (General Commercial) designations. The proposed general day care is a use that is permitted with approval of a minor use permit and is therefore consistent with the General Plan.
2. The subject property is not a part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The subject property is located within the Mixed Use Mariners' Mile (MU-MM) Zoning District, which is intended to permit nonresidential uses fronting on Coast Highway. Day care facilities are permitted in this zoning district with the approval of a minor use permit.
2. Pursuant to Table 3-10 in Zoning Code Section 20.40.040 (Off-Street Parking Spaces Required), general day care uses are required to provide one parking space for every seven occupants based on the maximum occupancy allowed per license. The proposed maximum occupancy is 72 students; therefore, the project requires 11 spaces. The proposed project includes surface parking with 14 parking spaces.
3. Pursuant to Section 20.48.070 (Day Care Facilities – Adult and Child), the preschool will comply with the development standards for a general day care facility. The site complies with minimum lot size and the proposed facility complies with the minimum separation distance and outdoor play area size to allow a general day care use.
4. Based on the proposed project description, the project is anticipated to generate approximately 315 daily trips. Trip generation information for the existing marine sales operations is not readily available. Assuming a standard General Office trip generation rate, the existing use is forecast to generate 56 daily trips. Therefore, the net increase

in trips is forecast to be 259 daily trips, and therefore no Traffic Phasing Ordinance study is necessary.

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 proposed preschool will operate as a typical general day care use. The design includes a parking area to facilitate children's drop-off/pick-up, landscaping, and outdoor play areas. Zoning Code required parking is provided, ensuring that employees and parents dropping off children may park onsite.
2. The project is conditioned to comply with the recommendations of the submitted acoustical report, including a maximum of 18 children playing outside at one time and the construction of the recommended sound attenuation barriers, to ensure compatibility with residential neighbors. The recommended barriers are a 6-foot barrier on the north and northwestern sides of the playground and a 7-foot barrier where a gap occurs in the southeastern adjacent buildings. Barriers are recommended to be constructed of impervious material weighing at least 4 pounds per square foot.
3. Commercial and residential uses are allowed in the vicinity. As conditioned, the proposed preschool is compatible with the surrounding residential and commercial uses because it will comply with Zoning Code requirements regarding noise, parking, and odor.

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 subject property is 0.43 acre (18,807 square feet) in size, generally rectangular in shape and is located in a commercial area with residential uses nearby. The day care is proposed to occupy an existing two-story commercial building.
2. The project includes 14 parking spaces, which exceeds the Zoning Code requirement of 11 spaces. Adequate trash storage facilities for the preschool are provided in an enclosed area, thereby preventing any odor or related issues for the residential and commercial uses nearby.

3. The site has vehicular access from the alley at the rear of the property. Access, circulation, and the drop-off/pick-up plan has been reviewed by the Public Works Department.
4. The Public Works Department, Building Division, and Fire Division have reviewed the application. The project is required to obtain all applicable permits from the City Building Department and must comply with the most recent, City-adopted version of the California Building Code.
5. The project is required to maintain a 5-foot wide clear path from Coast Highway to the main entrance to allow for adequate Fire Department access.

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. Adequate public and emergency vehicle access, public services, and utilities are provided on-site.
2. Adequate trash storage facilities for the day care facility are provided in a 48 square-foot enclosed storage area, thereby preventing any odor or related issues for the nearby commercial and residential uses.
3. As demonstrated in the acoustical report prepared by Newson Brown Acoustics, LLC, the preschool, as conditioned, is expected to operate in compliance with the noise standards within the Municipal Code.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2016-017, 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 11th DAY OF AUGUST, 2016.

BY:



Patrick J. Alford, 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. 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, increase in number of children, 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 7:30 a.m. to 6:30 p.m. Monday through Friday. Any increase in the hours of operation shall be subject to the approval of an amendment to this Minor Use Permit or the processing of a new use permit.
6. All mechanical equipment shall be screened from view of adjacent properties and adjacent public streets in accordance with Newport Beach Municipal Code Section 20.30.020 (Buffering and Screening), and shall be sound attenuated in accordance with Chapter 10.26 (Community Noise Control).
7. Prior to the issuance of building permits, Fair Share Traffic Fees shall be paid in accordance with Chapter 15.38 of the Newport Beach Municipal Code or a waiver of these fees shall be approved by the City Manager.
8. All proposed signs shall be in conformance with Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
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. The preschool is allowed a maximum of 72 children and 10 staff.
11. A total of 14 parking spaces shall be maintained on-site and available for parking at all times.

12. The project shall comply with the recommendations provided in the acoustical report dated May 26, 2016 prepared by Newton Brown Acoustics, LLC. These recommendations include a 6-foot tall barrier surrounding the northern and northwestern playground areas and a 7-foot tall barrier where the gap occurs in the southeastern adjacent buildings. Barriers shall be constructed from an impervious material weighing at least 4 pounds per square foot. The barriers should be free from gaps at the base, where the barrier abuts the building façade, and where any joints occur in the construction of the barrier. All penetrations through the barrier shall be thoroughly acoustically sealed. Any gates/doors used to access the playground through the acoustical screen shall be a solid door with a full frame that overlaps the door such that the door and frame assembly are free from gaps at the jambs and the door bottom/threshold. Final design, including material and color, is subject to review by the Director of Community Development prior to issuance of building permits.
13. In accordance with the assumptions made in the acoustical report, the outdoor play area shall be utilized by no more than 18 children at a time in a recess-like manner.
14. All trash shall be stored within the buildings 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.
15. 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).
16. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, debris, and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 8:00 a.m., daily, unless otherwise approved by the Director of Community Development, and may require an amendment to this Use Permit.
18. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
19. Prior to the issuance of building permits, documents/plans shall be submitted demonstrating compliance with the requirements of Chapter 14.17 (Water-Efficient Landscaping Ordinance) of the Municipal Code, if applicable.
20. Water leaving the project due to over-irrigation of landscape shall be minimized. If an incident such as this is reported, a representative from the Code and Water Quality Enforcement Division shall visit the location, investigate, inform and notice the

responsible party, and, as appropriate, cite the responsible party and/or shut off the irrigation water.

21. Water should not be used to clean paved surfaces such as sidewalks, driveways, parking areas, etc. except to alleviate immediate safety or sanitation hazards.
22. The facility shall comply with Newport Beach Municipal Code Section 20.30.070 (Outdoor Lighting). If in the opinion of the Director of Community Development existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
23. 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 7:00 a.m. and 10:00 p.m.		Between the hours of 10:00 p.m. and 7:00 a.m.	
	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

24. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current property owner or the leasing agent.
26. 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.
27. 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 CHALK of Newport Beach Minor Use Permit including, but not limited to, Minor Use Permit No. UP2016-017 (PA2016-072). This indemnification shall include, but not be limited to, damages awarded against the City, if

any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

PUBLIC WORKS DEPARTMENT

28. The existing driveway approach along West Coast Highway shall be removed, per City Standard STD-165-L. A Caltrans Encroachment Permit is required for all work within Caltrans right of way. All utility boxes shall be adjusted to grade.
29. The proposed parking lot shall be designed per City Standard STD-805-L-A and STD-805-L-B. The proposed dead-end drive aisle shall be designed to accommodate a minimum 5 foot hammerhead/drive aisle extension and dedicated turn around area.
30. A new 12-foot wide offer of dedication for street purposes shall be granted to the City of Newport Beach along the entire West Coast Highway frontage.
31. Existing water services shall be protected by a City approved back flow device installed per City Standard STD-520-L-A.
32. Reconstruct the existing broken and/or otherwise damaged concrete sidewalk panels, curb and gutter along the West Coast Highway and alley frontages.
33. All unused water services shall be abandoned to the water main.
34. A new sewer cleanout needs to be installed on the proposed sewer lateral(s) per STF-406-L adjacent to the property line in the West Coast Highway right of way.
35. All on-site drainage shall comply with the latest City Water Quality requirements.
36. The maximum number of students shall be capped at 72.
37. Drop-off and pick-up of students shall be prohibited on West Coast Highway.
38. Queuing onto the rear alley shall be prohibited. The applicant shall provide staff during peak pick-up and drop-off hours to assist parents and prevent back up on to the public right of way.

FIRE DEPARTMENT

39. Fire sprinklers required per NBMC 9.04.070 for building areas exceeding 5,000 square feet.

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40. Access to public right of way is required to be in accordance to CFC/CBC Section 1027.5.
 41. Panic hardware is required for doors and exterior gates.
 42. A fire alarm voice communication system is required per CFC/CBC Section 907.2.3.
 43. Fire Evacuation and Safety Plan required per Chapter 4 of the CFC.
 44. Lockable door requirement if state funded per CFC Section 1008.1.11.
 45. A 5-foot wide clear path from Coast Highway to the main entrance must be maintained.

BUILDING DIVISION

46. Applicant must file a "Request for Alternate Method of Construction" form for review and approval regarding section 442.1.1 "Location on Property" of the California Building Code (CBC) with exiting through adjoining rooms to class room 104 and a man gate in the vehicular gate at Coast Highway per DRC meeting with the Building Official.
47. Occupant load factor must be indicated based on 1/20 for kindergarten and 1/35 for daycare per table 1004.1.1 CBC
48. New restrooms must comply with Chapter 11 B CBC
49. Restroom must illustrate compliance with section 1210.3 Privacy.
50. Exit door at stairs must illustrate compliance with section 1005.7.1 CBC
51. Plans must illustrate compliance with section 11B-202.4 CBC Path of Travel requirements in alterations, additions and structural repair.
52. Play area must illustrate compliance with sections 424 and 11B-240 CBC.