



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 June 16, 2017.

ZONING ADMINISTRATOR ACTIONS JUNE 15, 2017

- Item 1: Jack's Surfboards/Jack's Girls Outdoor Sales Limited Term Permit No. XP2017-003 (PA2017-079)
Site Address: 2727 Newport Boulevard
Action: Approved by Resolution No. ZA2017-037 Council District 1
- Item 2: Scheurer Residence Coastal Development Permit No. CD2017-014 (PA2017-032)
Site Address: 355 Walnut Street
Action: Approved by Resolution No. ZA2017-038 Council District 5
- Item 3: Engstrom Residence Coastal Development Permit No. CD2017-009 (PA2017-025)
Site Address: 4106 River Avenue
Action: Approved by Resolution No. ZA2017-039 Council District 1
- Item 4: Clayton Coastal Development Permit No. CD2017-007 (PA2017-021)
Site Address: 409 39th Street
Action: Approved by Resolution No. ZA2017-040 Council District 1
- Item 5: Richley Residence Coastal Development Permit No. CD2017-015 (PA2017-036)
Site Address: 117 Via Lido Soud
Action: Approved by Resolution No. ZA2017-041 Council District 1
- Item 6: Smith Residence Coastal Development Permit No. CD2017-008 (PA2017-024)
Site Address: 2134 Miramar Drive
Action: Approved by Resolution No. ZA2017-042 Council District 1

- Item 7: Rodgers Residence Coastal Development Permit No. CD2017-028 (PA2017-068)
 Site Address: 320 and 322 Buena Vista Boulevard
 Action: Approved by Resolution No. ZA2017-043 Council District 1
- Item 8: Gunderson Residence Coastal Development Permit No. CD2017-018 (PA2017-045)
 Site Address: 409 North Bay Front
 Action: Approved by Resolution No. ZA2017-044 Council District 5
- Item 9: Godber Residence Coastal Development Permit No. CD2017-011 (PA2017-027)
 Site Address: 20 Beacon Bay
 Action: Approved by Resolution No. ZA2017-045 Council District 5
- Item 10: Ink Yard Tattoo Art Gallery Minor Use Permit UP2017-006 (PA2017-062)
 Site Address: 3413 Newport Boulevard
 Action: Approved by Resolution No. ZA2017-046 Council District 5

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period 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. ZA2017-037

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LIMITED TERM PERMIT NO. XP2017-003 FOR OUTDOOR SALES FOR JACK'S SURFBOARDS/JACK'S GIRLS LOCATED AT 2727 NEWPORT BOULEVARD (PA2017-079)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jack's Surfboards, with respect to property located at 2727 Newport Boulevard, and legally described as Lake Tract, Lot 4 Block 127, and Lots 5 to 14 including portion of Lots 2/3 lying northerly of 26th Street, and all -except street- Lots 15 to 19, including all in Block 127, Tract 418, requesting approval of a Limited Term Permit for more than 90 days.
2. The applicant proposes a Limited Term Permit for a period of 12 months to allow outdoor sales of store merchandise within three (3) parking spaces of the on-site parking lot in front of the Jack's Surfboards/Jack's Girls location. The outdoor sales may take place on various dates, up to nine (9) times throughout a 12-month period beginning with the date of the first sale in August 2017. Each sale may last up to four (4) consecutive days.
3. The subject property is located within the Commercial Visitor-Serving (CV) Zoning District and the General Plan Land Use Element category is Visitor-Serving Commercial (CV).
4. The subject property is located within the coastal zone. The Coastal Zoning District is CV and the Coastal Land Use Plan Category is Visitor-Serving Commercial (CV-A 0.00- 0.75 FAR).
5. A public hearing was held on June 15, 2017 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 15304 under Class Class 4 (Minor Alterations to Land) 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 qualifies for this exemption because there will be no permanent improvements to the site. The two (2) canvas canopies and temporary significant (water-filled or similar) barricades permitted to delineate the temporary sales area

within three (3) parking spaces of the on-site parking lot during the sales are conditioned to be removed at the end of each sale.

SECTION 3. REQUIRED FINDINGS.

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 the findings for a Limited Term Permit 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, 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 requested limited duration.*

Facts in Support of Finding:

1. The limited term permit will allow outdoor sales, which will be limited to nine (9) times throughout a 12-month period beginning with the date of the first sale in August 2017. Each sale may last up to four (4) consecutive days.
2. Outdoor sales will be limited to the sale of typical store merchandise and will be conducted in conjunction with the normal hours of operation of Jack's Surfboards/Jack's Girls, typically from 8:00 a.m. to 9:00 p.m.
3. Set-up for each sale day will occur prior to opening of the store, and all unsold merchandise will be removed from the outdoor sales area at the end of each sale day.
4. The outdoor sales area will be limited to a maximum of three (3) parking spaces located adjacent to the Jack's Surfboards/Jack's Girls storefront. Portable canopies (approximately 10 feet by 10 feet) may be erected within the three (3) parking spaces. As conditioned, no ADA parking spaces will be utilized as part of the outdoor sales area.
5. In order to enhance patron safety from vehicular traffic, the applicant has provided and the City Traffic Engineer has approved, a plan illustrating the placement of significant barricades around the perimeter of the outdoor sales area to delineate it from the adjacent parking spaces and drive aisles.
6. Similar outdoor sales for Jack's Surfboards, as conditioned and in the same location within the adjacent parking area, have been conducted in the past with approval of the City and have not been proven detrimental.

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 site is a commercial property, which is .94 acres in size and developed with two (2) detached buildings occupied by various retail and service uses. Jack's Surfboards/Jack's Girls are retail sales stores which occupy most of the square footage of the larger of the two (2) detached buildings, which is located within the southerly portion of the site.
2. Outdoor sales will be conducted within three (3) parking spaces located directly in front of Jack's Surfboards/Jack's Girls storefront. Based upon the site plan, the use of the three (3) parking spaces will not impede traffic circulation on the site, nor will it negatively impact required parking for other uses on the site. As conditioned, no ADA parking spaces will be utilized as part of the outdoor sales area.
3. The subject site is bounded by Newport Boulevard to the east, Balboa Boulevard to the west, 28th Street to the north, and 26th Street to the south. The adjacent rights-of-way (Newport Boulevard and Balboa Boulevard) serve as buffers between the nearby residential properties within the R-2 (Two-Unit Residential) Zoning District.

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.

Fact in Support of Finding:

1. The subject site has two (2) direct driveway approaches, one (1) from Newport Boulevard on the easterly side of the site and one (1) from Balboa Boulevard on the westerly side. The location of the outdoor sales area will not impede access to the site, and no traffic issues resulting from the outdoor sales are anticipated.

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. As conditioned, a maximum of three (3) parking spaces (eighty-six (86) parking spaces on site) will be utilized for the outdoor sales area, and no ADA parking spaces will be utilized as part of the outdoor sales area.
2. It is anticipated that, in addition to customers whose destination would be Jack's Surfboards/Jack's Girls, the outdoor sales could attract both pedestrian and vehicular customers of other uses on the site as well as in the surrounding area.
3. Per City Code Enforcement records, previous outdoor sales conducted with approval of a use permit by the City and conditioned similarly to this permit have not negatively impacted the parking for neighboring uses on the subject site.

Finding:

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

Facts in Support of Finding:

1. The General Plan Land Use Element category for the site is CV (Commercial Visitor-Serving). The CV designation is intended to provide for accommodations, goods, and services intended to primarily serve visitors to the City. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation.
2. The site is located in the CV (Commercial Visitor-Serving) Zoning District. The CV zoning designation is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City. The proposed use is accessory to the existing retail use, will be utilized for a limited duration on-site, and will not impede use of the site consistent with the CV designation. The CV zoning district allows temporary uses as specified within the Zoning Code and the proposed limited duration use is consistent with this designation.
3. The property is within the Coastal Zone. Temporary events authorized by a Limited Term Permit are exempt from the requirement of a Coastal Development Permit pursuant to Section 21.52.035 D. (Special and Temporary Events) of the Municipal Code. Pursuant to 21.52.035 D., this Limited Term Permit meets the following criteria: will not significantly impact public use of roadways or parking areas or otherwise impact public use or access to coastal waters; will not occupy any portion of a public sandy beach or the location is remote with minimal demand for public use; and there is no potential for adverse effect of sensitive coastal resources; a fee will not be charged for general public admission; and does not involve permanent structures or structures that involve grading or landform alteration for installation.
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 Limited Term Permit No. XP2017-003, 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 15TH DAY OF JUNE, 2017.



Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan except as noted in the following conditions.
2. Anything not specifically approved by this limited term permit is prohibited and must be addressed by a separate and subsequent review.
3. The outdoor sales shall be limited to nine (9) times throughout a 12-month period beginning with the date of the first sale requested in August 2017. Each sale may last up to four (4) consecutive days, provided the number of sale days does not exceed thirty (30) within the 12-month period. The dates requested by the applicant and approved with this permit are as follows: 2017 - August 18, 19, 20; 21; August 25, 26, 27; September 1, 2, 3, 4; November 24, 25, 26; December 23, 24, 26, 27; 2018 – March 29, 30, 31; April 1; May 25, 26, 27, 28 July 4, 5, 6, 7. Any changes to the dates specified shall require that the City be notified in advance.
4. To request a change to the sale dates approved with this Limited Term Permit, the applicant shall submit a letter to the Community Development Director requesting the change at least one (1) week prior to the new date.
5. This Limited Term Permit shall expire twelve (12) months from the date of the first sale requested in August 2017, unless an extension of up to one (1) additional period of 12 months is granted by the Zoning Administrator in compliance with Section 20.54.060 (Time Limits and Extensions) of the Zoning Code. A letter requesting the extension shall be submitted to the Planning Division no later than thirty (30) days prior to the expiration date of this permit.
6. The Limited Term Permit shall be limited to outdoor sales of merchandise associated with Jack's Surfboards/Jack's Girls only and does not permit outdoor sales as an independent use. The sale of snacks, food and beverages shall be prohibited.
7. Outdoor sales shall take place in conjunction with the normal hours of operation of Jack's Surfboards/Jack's Girls, typically from 8:00 a.m. to 9:00 p.m. Set-up for the sale shall occur before the store opens. All areas shall be kept clean throughout the day. Any unsold merchandise and any related items shall be removed from the outdoor sales area at the end of each day by 10 p.m. The significant (water-filled or similar) barricades may remain until the end of the last date of each sale.
8. The outdoor sales area shall occupy no more than three (3) parking spaces located directly in front of the Jack's Surfboards storefront as shown on the approved plot plan (approximately 20 feet by 10 feet for a total of 200 square feet) and shall not extend into

the public right-of-way. No ADA parking spaces shall be utilized as part of the outdoor sales area.

9. The outdoor sales area shall be separated from the adjacent building by a minimum of 20 feet.
10. No activities related to the outdoor sales are permitted on public property including any portion of a public street or public sidewalk.
11. The outdoor sales shall not create a pedestrian or traffic hazard. The sales area shall be surrounded by significant barricades (i.e. water-filled barricades or other barricades approved by the Planning Division and Public Works Department) to delineate the sales area and provide patron safety from adjacent vehicular traffic.
12. Any change to the approved plot plan/site plan delineating the location of the outdoor sales area, barricade locations, and barricade type shall be reviewed and approved by the Planning Division and City Traffic Engineer prior to the sale date and shall be submitted to the Planning Division to be included in the project file.
13. The sales area shall be signed to clearly identify that the area is closed for vehicular parking.
14. No posting of promotional signs is permitted on any portion of public property, including trees, utility poles, street signs, etc. All signage located on-site shall comply with Chapter 20.42 (Sign Standards) of the Zoning Code.
15. No amplified sound is permitted.
16. No smoking or open flames are permitted inside the canopies.
17. The sales area and vicinity will be kept clean at all times.
18. 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 Jack's Surfboards/Jack's Girls Outdoor Sales including, but not limited to, XP2017-003 (PA2017-079). 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.

FIRE

19. Tents and canopies having an aggregate area in excess of 400 square feet will not require a permit if the following is provided: a. fabric tent is open on all sides, individual tent does not exceed a maximum size of 700 square feet, tents placed side-by-side to not exceed an aggregate area of 700 square feet, and a minimum clearance of twelve (12) feet is maintained to all structures and other tents.
20. Provide a 2A-10BC extinguisher outside.
21. No outdoor heaters are permitted.

PUBLIC WORKS

22. All vehicles shall be lawfully parked. No fire lane exemptions.
23. No activity is permitted within the public right-of-way.
24. No posting of promotional signs is permitted on any portion of the public right-of-way, including trees, utility poles and street signs, etc.
25. No exclusive use of public parking areas is permitted.
26. Activities shall not create a pedestrian or traffic hazard. Prevent crowds from blocking sidewalks or standing in drive aisle.
27. Sales event area shall be surrounded by significant barricades (i.e. water-filled barricades), to delineate the sales area and provide patron safety from adjacent vehicular traffic within the parking lot.
28. The sales area shall be clearly signed to identify that the sales area is closed to vehicular traffic and parking.

RESOLUTION NO. ZA2017-038

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-014 FOR A NEW SINGLE-FAMILY RESIDENCE LOCATED AT 355 WALNUT STREET (PA2017-032)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Mark Scheurer, architect, with respect to property located at 355 Walnut Street, and legally described as Lot P, Block 15, of Tract 772, being a portion of Lot No. 1 Section 20 and Range 10 West SBB&M in the City of Newport Beach, Orange County, California.
2. The applicant proposes a Coastal Development Permit for the demolition of an existing single-family residence and construction of a new 29-foot high, three-story, 2,468 single-family dwelling with an attached 568-square-foot 2-car garage. The design includes hardscape, drainage, and 185 square feet of landscaping. The project complies with all applicable development standards and no deviations are requested.
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.
5. A public hearing was held on June 15, 2017, 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 15303 under Class 3 (New Construction or Conversion of Small 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 3 exempts the construction of limited numbers of new, small structures, including one single-family residence, located in a Single-Unit Residential Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Coastal Development Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The subject property is currently developed with a single-story single-family home on an existing lot designated for residential development by the Local Coastal Program. The project applicant requests to demolish the existing single-family residence and construct a new single-family residence. The proposed roof height of the residence conforms to the standards of the Zoning Code and Local Coastal Program. The design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development. The proposed residence is consistent with all applicable development standards.
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The property is not located within 200 feet of coastal waters. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
4. The property is not located near designated Public View Points or Coastal View Roads and will not impact public coastal views.

Finding:

B. *Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is not located between the nearest public road and the sea or shoreline and demolition of the existing residence will not affect public recreation or access.
2. Adequate public access to the sea exists on Grant Street, Lancaster Street, Sunset Drive, Canal Street, Cedar Street, and 61st Street. The proposed single-family residence will not interfere with existing public access to the sea.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-014 (PA2017-032), 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.
3. **PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2017.**



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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-014 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
7. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. 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 Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approval 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 Coastal Development Permit.

9. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
10. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
11. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
12. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
13. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
14. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
15. 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 Scheurer Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-014 (PA2017-032). 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. ZA2017-039

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-009 FOR A NEW SINGLE UNIT RESIDENCE LOCATED AT 4106 RIVER AVENUE (PA2017-025)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sharon Engstrom, with respect to property located at 4106 River Avenue and legally described as Lot 4, Block 241, Tract 164, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and attached garage and the construction of a new 29-foot, 3,571 square-foot single-family residence with an attached garage. The development also includes hardscape, drainage, and landscaping. The proposed residence complies with all applicable development standards including height, setbacks and floor area limits.
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 Plan category is Two-Unit Residential – 20.0-29.9 DU/AC (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on June 15, 2017, 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 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 (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,648 square feet and the proposed floor area is 3,571 square feet.
 - b. The proposed development complies with the required setbacks, which are 4 feet along the front property line adjacent to River Avenue, 3 feet along each side property line and 20 feet along the front property line adjacent to the water.
 - c. The highest guardrail/parapet is less than 24 feet from the established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development includes less than 4,000 square feet of livable floor area, a two-car garage is required. The proposed development provides a compliant two-car garage.
2. Pursuant to Section 21.20.15(E)(2), a Coastal Hazards Report has been prepared and concluded that due to the existing protective device (bulkhead) at the site, the subject property impacts from wave run-up, high tide conditions, storm waves and sea level rise are not anticipated. The proposed development complies with the minimum 9.00 (NAVD88) finished floor elevation.
3. Pursuant to Municipal Code Section 21.20.15(E)(3), a Bulkhead Conditions Report has been prepared and concluded that as a part of the proposed development, the seawall will be repaired/reinforced in order to comply with the City of Newport Beach Building Division requirements. Once reinforced, no additional repair or replacement of the seawall is anticipated for the next 75 to 100 years.

4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
5. The property is located within 100 feet of coastal waters. Pursuant to Municipal Code Section 21.35.030, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMP's) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived construction chemicals and materials. A CPPP has been reviewed and approved by the City's Engineer Geologist. Construction plans and activities will be required to adhere to the approved CPPP.
6. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. The WQHP has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMP's, use of an LID approach to retain the storm runoff volume onsite, and documentation of the expected effectiveness of the proposed BMP's. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
7. Proposed landscaping complies with Implementation Plan Section 21.30.075. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The existing residential lot does not currently provide nor inhibit public coastal access. The proposed development will remain within the existing residential lot. The property is located approximately 300 feet from the public beach and access points are provided at several street ends along River Avenue.
2. The property is not located near Public View Points or Coastal View Roads, as designated in the Coastal Land Use Plan, and will not impact public coastal views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-009, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15th DAY OF JUNE, 2017.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns. A case is pending before the California Supreme Court (*Lynch v. California Coastal Commission* (2014) 229 Cal.App.4th 658), which may affect this condition. If the Court finds the California Coastal Commission is unable to limit future shoreline protection, this condition shall be null and void without further action by either party.
4. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 development.
5. Prior to the issuance of the building permits, the approved CPPP and WQHP shall be submitted with the building permit plans. Implementation shall be in compliance with the approved CPPP and WQHP and any changes could require separate review and approval by the Building Division.
6. Coastal Development Permit No. CD2017-009 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 of the Newport Beach Municipal Code, unless an extension is otherwise granted.

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. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
10. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
11. 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 Coastal Development 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 Coastal Development Permit.
12. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
13. 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.
14. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
15. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
16. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in

confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.

17. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
18. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
19. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
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 21 Planning and Zoning of the Newport Beach Municipal Code.
22. 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 Engstrom Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-009 (PA2017-025). 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.
23. The existing sea wall shall be raised to a minimum of 10.00 MLLW in compliance with The City of Newport Beach Waterfront Project Guidelines and Standards unless otherwise approved by the Public Works Department.

RESOLUTION NO. ZA2017-040

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-007 FOR A NEW SINGLE UNIT RESIDENCE LOCATED AT 409 39TH STREET (PA2017-021)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Eric Aust, with respect to property located at 409 39th Street. and legally described as Lot 9, Block 439 of the Canal Section. requesting approval of a Coastal Development Permit.
2. The applicant proposes to demolish an existing 894 square-foot single-family residence with attached garage and construct a 2,974 square foot single-family residence with a 495 square foot two-car garage. The proposed residence would include four bedrooms and a rooftop deck with a maximum height of approximately 29 feet. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, landscaping, and modifications to existing utility connections. The project complies with all applicable development standards including height, setbacks, and floor area limits.
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 Zoning District is Two-Unit Residential (R-2) and the Coastal Land Use Plan category is Two Unit Residential (RT-D).
5. A public hearing was held on June 15, 2017 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 15303 under Class 3 (New Construction or Conversion of Small 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. The Class 3 exemption allows the construction and location of limited numbers of new small facilities or structures, including a single-family residence. The proposed project

consists of the demolition and construction of a single-family residence; therefore, the project is exempt.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,840 square feet and the proposed floor area is 3,469 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet along the front property line, 3 feet along each side property line and 5 feet along the rear property line.
 - c. The highest guardrail/parapet is less than 24 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. As the proposed development includes less than 4,000 square feet of livable floor area, a two-car garage is required. The proposed development provides a two-car garage.
2. The neighborhood is predominantly developed with two- and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The proposed development is not located on the shoreline and is approximately 175 feet from the harbor, and more than 1,100 feet from the nearest beach. The proposed finished floor is 9.75 MSL (NAVD88), which is higher than the 9.00 MSL (NAVD88) standard. Impacts from wave run-up and sea level rise are not anticipated.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

5. The property is located within 200 feet of coastal waters. A Construction Pollution Prevention Program has been provided and a post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant plants and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

Fact in Support of Finding:

The proposed project is not located between the nearest public road and the sea or shoreline.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves CD2017-007 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE 2017.



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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-007 shall expire and become void unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
7. Prior to the issuance of building permits, a copy of the resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. Prior to the issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development Permit file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.

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10. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
 11. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
 12. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan consistent with Implementation Plan Section 21.30.075. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
 13. 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.
 14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
 15. 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 Clayton Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-007 (PA2017-021). 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. ZA2017-041

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-015 FOR A NEW SINGLE UNIT RESIDENCE LOCATED AT 117 VIA LIDO SOUD (PA2017-036)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bud and Nancy Richley, with respect to property located at 117 Via Lido Soud, and legally described as Lot 884 and the southeasterly 10 feet of Lot 883 of Tract No. 907, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence with attached garage and the construction of a new 4,174-square-foot single-family residence with a 660-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – (10.0 - 19.9 DU/AC) (RSD-C) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. A public hearing was held on June 15, 2017, 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 Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15315, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-1 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 5,164 square feet and the proposed floor area is 4,147 square feet.
 - b. The proposed development complies with the required setbacks, which are 4 feet along the property line abutting Via Lido Soud, 3 feet along each side property line and 10 feet along the property line opposite of Via Lido Soud. Variance Number 587 allows for an overhang to encroach up to the property line opposite of Via Lido Soud.
 - c. The highest guardrail/parapet is less than 24 feet from established grade and the highest ridge is 24 feet from established grade. The proposed development complies with all height requirements.
 - d. The proposed development provides a three-car garage, exceeding the two-car minimum garage requirement for residences with less than 4,000 square feet of livable floor area.
2. The neighborhood is predominantly developed with two-and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development is set back approximately 90 feet from a city bulkhead. The proposed finished floor of the structure is 14.27 feet MSL (NAVD88), which is higher than the 9.00 feet minimum MSL (NAVD88) standard. A Coastal Hazard and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated March 29, 2017 for the project. The report concludes that the proposed improvements are above any potential coastal hazard, including a 5.5-foot sea level rise over the next 75 years.
4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation

identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.

5. The property is located within 100 feet of coastal waters. Thomas M. Ruiz, Civil Engineer, has provided a Water Quality Management Plan (WQMP), prepared April 24, 2017, and a Construction Pollution Prevention Plan (CPPP), prepared April 25, 2017. Both provided studies have been reviewed and approved by the City's Engineer Geologist. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline and the proposed project will not affect public recreation, access or views.
2. Adequate public access to the bay exists on Via Lido and Via Lido Nord. Vertical access to the Bayfront is available approximately 315 feet east of the site at the intersection of Via Antibes and Via Lido Nord where there is a small public beach with access to the water. The proposed single-family residence shall not interfere with existing public access to the sea.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-015, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section

21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2017.



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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-015 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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 Coastal Development Permit.
6. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 development.
7. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
8. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. 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 Coastal Development 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 Coastal Development Permit.

10. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
11. Prior to issuance of the building permits, the approved CPPP and WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQMP and any changes could require separate review and approval by the Building Division.
12. Prior to the issuance of building permits, the applicant shall submit a landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
13. 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.
14. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
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 business owner, property owner, or the leasing agent.
16. 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 21 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 Richley Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-015 (PA2017-036). 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. ZA2017-042

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-008 FOR A NEW SINGLE UNIT RESIDENCE LOCATED AT 2134 MIRAMAR AVENUE (PA2017-024)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero, with respect to property located at 2134 Miramar Drive and legally described as Tract 518, Block O, Lot 11 and Por. of Lot 10, Parcel 2 requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and attached garage and the construction of a new 29-foot high, 3,228 square foot single-family residence with an attached garage. The development also includes hardscape, drainage, and 40 square feet of landscaping. The proposed residence complies with all applicable development standards including height, setback, and floor area limits.
3. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached – 10.0-19.9 DU/AC (RSD-C) and the Coastal Zoning District is Single-Unit Residential (R-1).
5. A public hearing was held on June 15, 2017 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 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 (CEQA) under Class 3 (New Construction or Conversion of Small Structures).
2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-1 Coastal Zoning District and complies with all applicable development standards.

3. As a Class 4 Resource (Historic Resource Inventory), the Gronsky House is not considered a significant historical resource for the purposes of CEQA. Pursuant to Section 15064.5 (Determining the Significance of Impacts to Archeological and Historical Resources) of the CEQA Guidelines, a resource identified as significant in a Historical Resource Survey is presumed to be historically or culturally significant. In this case, the City's *Historic Resource Inventory* determined the structure is not a significant historic resource, but rather of historic interest worthy of recognition. The 1992 Historic Resource Inventory was not formally adopted by resolution or ordinance. Additionally, the home is not on the formally adopted *Newport Beach Register of Historical Property* therefore, the home does not meet the definition of a historic resource under CEQA.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,506 square feet and the proposed floor area is 3,228 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet along the front property line, 3 feet along each side property line and 0 feet along the rear property line adjacent to the alley.
 - c. The highest guardrail/parapet is less than 24 feet from the established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
 - d. As the proposed development includes less than 4,000 square feet of livable floor area, a two-car garage is required. The proposed development provides a compliant two-car garage.
2. The neighborhood is predominantly developed with two-and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The proposed development is not located on the shoreline and is approximately 450 feet from the nearest beach and over 300 feet from Newport Bay. The proposed finished floor is 11.00 MSL (NAVD88) which is higher than the 9.00 MSL (NAVD88) standard. Impacts from wave run-up and sea level rise are not anticipated.

4. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and California Building Code (CBC) prior to building permit issuance.
5. Project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
6. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive species. Final landscape plans will be checked to verify invasive species are not planted.
7. The existing home (Gronsky House) is included in the City's Historic resource Inventory (1992). The inventory provides guidance but is not a formal historic resource list nor was it formally adopted by the City Council. The home is not included on the *Newport Beach Register of Historical Properties*, which is the official list.
8. Conditional of Approval No. 14 requires photographic documentation of the home be prepared prior to the issuance of demolition permits. Photo documentation is consistent with past requirements when Class 4 structures have been proposed for demolition.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The proposed project is not located between the nearest public road and the sea or shoreline.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-008, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15th DAY OF JUNE, 2017.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

SEE PC STANDARD CONDITIONS.DOC

(Project-specific conditions are in italics)

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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-008 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. 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.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
7. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. Prior to the issuance of a building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
9. 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 Coastal Development 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 Coastal Development Permit.

10. Prior to the issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to the review and approval by the Building Division.
11. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
12. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan consistent with Implementation Plan section 21.30.075.. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
13. 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.
14. *Prior to the issuance of a demolition permit, the applicant shall submit a photographic documentation with captions describing the photographs of the existing home (Gronsky House). The photographs should include noteworthy exterior and interior features of the home. Adequacy of the documentation shall be reviewed and approved by the Planning Division.*
15. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. 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.
17. 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 21 Local Coastal Program Implementation and Zoning of the Newport Beach Municipal Code.
18. 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 Smith Residence including, but not limited to, Coastal Development No. CD2017-008. 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. ZA2017-043

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-028 FOR THE EXPANSION OF AN EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 320 AND 322 BUENA VISTA BOULEVARD (PA2017-068)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Stephen E. Rogers, with respect to property located at 320 and 322 Buena Vista Boulevard requesting approval of a coastal development permit.
2. The lot at 320 Buena Vista Boulevard is legally described as Lot 158 of Subdivision Block A, East Newport. The lot at 322 Buena Vista Boulevard is legally described as Lot 157 of Subdivision Block A, East Newport. The two lots were approved to be merged by the Zoning Administrator on October 27, 2016, under Lot Merger No. LM2016-059 and by the California Coastal Commission on March 8, 2017, under Coastal Development Permit No. 5-16-115-W. Upon the demolition of the existing residence located at 322 Buena Vista Boulevard, recordation of the lot merger documents will be completed.
3. The applicant proposes the demolition of an existing single-family residence at 322 Buena Vista Boulevard and remodel/expansion of an existing 3,075 square-foot, single-family residence at 320 Buena Vista Boulevard with a 3,070-square-foot addition. The resulting floor area of the residence would be 6,145 square feet. Parking would consist of an existing two-car garage and a new three-car garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices, and landscaping.
4. The subject property is located within the Single-Unit Residential (R-1) Zoning District and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
5. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is Single-Unit Residential Detached (RSD-C).
6. A public hearing was held on June 15, 2017, 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 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. Class 1 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the addition of 3,070 square feet to an existing single-family residence.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 6,720 square feet and the proposed floor area is 6,145 square feet.
 - b. The proposed development complies with the required setbacks, which are 9 feet along the front property line abutting Buena Vista Boulevard, 4 feet along each side of property line and 5 feet along the rear property line abutting the alley. Portions of the existing residence that currently encroach up to 4 inches into the westerly side setback are proposed to be demolished and the structure modified for setback conformance.
 - c. The highest guardrail is less than 24 feet from established grade and the highest ridge is approximately 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of five vehicles, exceeding the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.

2. The neighborhood is predominantly developed with two-and three-story single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The project site is separated from the Newport Bay by a public sidewalk and private bayfront parcels. The finish floor elevation of the existing dwelling and proposed addition is 9.9 MSL (NAVD 88), which is higher than the 9.00 MSL (NAVD88) elevation standard. A waterproofing 6-inch curb is proposed to be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 10.4 feet (NAVD88).
4. A Coastal Hazard and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated October 28, 2016 for the project. The report concludes it is very unlikely that any type of wave will reach the site even considering a 4.5-foot sea level rise and that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. Overall, the analysis concludes that the proposed project will be safe from flooding hazards for the next 75 years using a low anticipated sea level rise rate and for the next 58 years using the highest anticipated sea level rise rate.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The property is located within 100 feet of coastal waters. Pursuant to Section 21.35.030 of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. A CPPP prepared by Civilscapes Engineering, dated March 7, 2017, has been reviewed and approved by the City's Engineer Geologist.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQHP prepared by Civilscapes Engineering, dated March 7, 2017, has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive

species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted

Finding:

B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. Vertical access to the bay front is available approximately 250 feet west of the site at the intersection of Buena Vista Boulevard and West Bay Avenue where there is a small public beach with access to the water.
3. The public beach is also the start of a six-foot-wide public sidewalk providing lateral access and views of the bay along the bay front in front of the project site. The sidewalk is located within a 10-foot-wide right-of-way that would allow for future widening and maintenance of the sidewalk.
4. The property is subject to Restrictive Covenant Agreements limiting the height of improvements and landscaping within previously vacated right-of-way bayward of the public sidewalk to maintain views of the bay.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-028, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2017.



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. Prior to the issuance of building permits, recordation of the Lot Merger No. LM2016-009 documents with the County Recorder shall be required.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 development.
4. The existing stairs and planter wall located within the public right-of-way in front of 322 Buena Vista Boulevard lot shall be removed.
5. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
8. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
9. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.

10. 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 Coastal Development 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 Coastal Development Permit.
11. Prior to issuance of the building permits, the approved CPPP and WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQMP and any changes could require separate review and approval by the Building Division.
12. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
13. 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.
14. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
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 business owner, property owner, or the leasing agent.
16. This Coastal Development Permit No. CD2017-028 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
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 Rogers Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-028 (PA2017-068). 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. ZA2017-044

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-018 FOR THE DEMOLITION OF AN EXISTING SINGLE-UNIT RESIDENCE AND THE CONSTRUCTION OF A NEW SINGLE-UNIT RESIDENCE WITH APPURTENANCES LOCATED AT 409 NORTH BAY FRONT (PA2017-045)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brandon Architects, Inc. on behalf of Dave Gunderson, Property Owner, with respect to property located at 409 North Bay Front, and legally described as Lot 5, Block 8, of the Resubdivision of Section One of Balboa Island, requesting approval of a coastal development permit.
2. The applicant proposes the demolition of an existing single-family residence with attached garage and the construction of a new approximately 2,450 square-foot single-family residence with a 464-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices and landscaping.
3. The General Plan Land Use Element designation for the subject property is Two-Unit Residential (RT) and it is located within the Balboa Island (R-BI) Zoning District.
4. The Coastal Land Use Plan category is for the subject property is Two-Unit Residential – (30.0 – 39.9 DU/AC) (RT-E) and it is located within the Balboa Island (R-BI) Coastal Zoning District.
5. A public hearing was held on June 15, 2017, 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 Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-BI Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,992.5 square feet and the proposed floor area is 2,914 square feet.
 - b. The proposed development complies with the required setbacks, which are 10 feet along the front property line abutting North Bay Front, 3 feet along each side property line and 5 feet along the rear property line abutting the alley.
 - c. Council Policy L-6 allows private encroachments (e.g., planters, fences and patios) into the public right-of-way. All improvements in the right-of-way will be reviewed by the Public Works Department for compliance.
 - d. The highest guardrail is 24 feet from established grade and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
 - e. The project includes garage parking for a total of two vehicles, meeting the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story single- and two-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the Newport Bay, but is separated from the shoreline by a public sidewalk. The site is protected by a public bulkhead. The finished floor elevation of the proposed residence is 9.00 MSL (NAVD 88), which meets the 9.00 MSL (NAVD88) elevation standard. A waterproofing 6-inch curb is proposed be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of 9.5 feet (NAVD88).

4. A Coastal Hazard and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated April 5, 2017, for the project. The report concludes it is very unlikely that any type of wave will reach the site, even considering a 4.5-foot sea level rise. Overall, the analysis concludes that the proposed project will be reasonably safe from coastal hazards for the next 75 years, provided the City maintains protection of the system of bulkheads, and that it will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The property is located within 100 feet of coastal waters. Pursuant to Section 21.35.030 of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. A CPPP has been reviewed and approved by the City's Engineer Geologist.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. The WQHP has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a Low Impact Development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant, non-invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. The project will not affect the public's ability to gain access to, use, and/or view the coast and

nearby recreational facilities. The abutting public sidewalk will remain open throughout construction and a minimum 6-foot tall temporary construction barrier will separate construction activities and pedestrians.

2. Vertical access to the bay front public sidewalk and Newport Bay is available approximately 130 feet west and 65 feet east of the site where North Bay Front intersects Pearl Avenue and Agate Avenue, respectively
3. The public beach is also the start of a public sidewalk providing lateral access and views along the bay front in front of the project site. All encroachments into this area are limited by Council Policy L-6 and will be reviewed as part of the building permit plan check.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-018, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2017.



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. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 development.
3. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
4. Coastal Development Permit No. CD2017-018 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. 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 Coastal Development Permit.
7. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
8. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. 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 Coastal Development 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 Coastal Development Permit.

10. Prior to issuance of the building permits, the approved Construction Pollution Prevention Plan (CPPP) and Water Quality and Hydrology Plan (WQHP) shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQHP and any changes could require separate review and approval by the Building Division.
11. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
12. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
13. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
14. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
15. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the CPPP.
16. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
17. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

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18. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 19. The abutting public sidewalk shall remain completely free and open throughout all construction and a minimum 6-foot tall temporary construction barrier shall be erected.
 20. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
 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 21 (Local Coastal Program Implementation Plan) of the Newport Beach Municipal Code.
 22. 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 Gunderson Residence including, but not limited to, Coastal Development Permit No. CD2017-018 (PA2017-045). 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. ZA2017-045

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-011 FOR THE DEMOLITION OF AN EXISTING SINGLE-UNIT RESIDENCE AND THE CONSTRUCTION OF A NEW SINGLE-UNIT RESIDENCE WITH APPURTENANCES LOCATED AT 20 BEACON BAY (PA2017-027)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Entitlement Advisors on behalf of Rick Godber, Property Owner, with respect to property located at 20 Beacon Bay, and legally described as Parcel 20 as shown on Page 42 of Records Book 9 in the Office of the Recorder of the County of Orange, requesting approval of a coastal development permit.
2. The applicant proposes the demolition of an existing single-family residence with attached garage and the construction of a new approximately 4,281 square-foot, single-family residence with a 572-square-foot attached garage. The proposed development also includes additional appurtenances such as walls, fences, patios, hardscape, drainage devices and landscaping.
3. The General Plan Land Use Element designation for the subject property is Two-Unit Residential (RT) and it is located within the Two-Unit Residential (R-2) Zoning District.
4. The Coastal Land Use Plan category for the subject property is Two-Unit Residential – (10.0 – 19.9 DU/AC) (RT-C) and it is located within the Two-Unit Residential (R-2) Coastal Zoning District.
5. A public hearing was held on June 15, 2017, 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 Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has not potential to have a significant effect on the environment.

2. Class 3 exempts the construction of limited numbers of new, small structures, including one single-family residence. The proposed project is a new single-family residence located in the R-2 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 21.52.015 (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is approximately 5,435 square feet and the proposed floor area is 4,853 square feet.
 - b. The proposed development complies with the required setbacks, which are 15 feet along the waterfront property line, 3 feet along each side property line and 3 feet along the property line abutting Beacon Bay. A roof cover is permitted to encroach up to 14 feet, 6 inches into the required 15-foot waterfront setback per Variance No. VA0342 for Lots 1 through 22.
 - c. The highest guardrail is less than 24 feet from established grade and the highest ridge is 29 feet from established grade, which comply with the maximum height requirements.
 - d. The project includes garage parking for a total of three vehicles, meeting the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story single-family residences. Most of the newer residences have a rooftop deck and a partial third-story. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts the Newport Bay, but is separated from the shoreline by a public bayfront parcel. The project site is not protected by a bulkhead or any other shoreline protective device. The finished floor elevation of the proposed structure is 9.67 MSL (NAVD 88), which is higher than the 9.00 MSL (NAVD88) elevation standard. A waterproofing curb is proposed be constructed around the perimeter of the dwelling that would protect against flooding up to an elevation of approximately 11.7 feet (NAVD88).

4. A Coastal Hazard and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated March 17, 2017, for the project. The report concludes it is very unlikely that any type of wave will reach the site even considering a 4.5-foot sea level rise and that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. Overall, the analysis concludes that the proposed project will be safe from flooding hazards for the next 75 years.
5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
6. The property is located within 100 feet of coastal waters. Pursuant to Section 21.35.030 of the Municipal Code, a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. A CPPP has been reviewed and approved by the City's Engineer Geologist.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. The WQHP has been reviewed and approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.

Finding:

- B. Conforms with the public access and public recreation policies of Chapter 3 of the Coastal Act if the project is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone.*

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.

2. Vertical access to the bay front is available immediately west of the site at the intersection of Beacon Bay and Reef Cove where there is a small public beach with access to the water.
3. Lateral access along the public beach to the south will not be impeded as proposed and conditioned.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-011, 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 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 15TH DAY OF JUNE, 2017.



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. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns. A case is pending before the California Supreme Court (*Lynch v. California Coastal Commission* (2014) 229 Cal.App.4th 658), which may affect this condition. If the Court finds the California Coastal Commission is unable to limit future shoreline protection, this condition shall be null and void without further action by either party.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless 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 development.
4. There shall be no encroachments into the public beach.
5. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
6. Coastal Development Permit No. CD2017-011 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
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 Coastal Development Permit.

9. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
10. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
11. 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 Coastal Development 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 Coastal Development Permit.
12. Prior to issuance of the building permits, the approved Construction Pollution Prevention Plan (CPPP) and Water Quality and Hydrology Plan (WQHP) shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and WQHP and any changes could require separate review and approval by the Building Division.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. 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.
15. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. No demolition or construction materials, equipment debris, or waste, shall be placed or stored in a location that would enter sensitive habitat, receiving waters, or a storm drain or result in impacts to environmentally sensitive habitat areas, streams, wetland or their buffers.
17. Best Management Practices (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity as designated in the CPPP.

18. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
19. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
20. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
22. 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 21 Local Coastal Program of the Newport Beach Municipal Code.
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 Godber Residence including, but not limited to, Coastal Development Permit No. CD2017-011 (PA2017-027). 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. ZA2017-046

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2017-006 FOR A TATTOO STUDIO (PERSONAL SERVICES, RESTRICTED USE) LOCATED AT 3413 NEWPORT BOULEVARD (PA2017-062)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Emilio Flores, with respect to property located at 3413 Newport Boulevard, and legally described as Parcels 2 and 3 as shown on Exhibit A, attached to Lot Line Adjustment N.B.L.L.A. 80-1, recorded April 10, 1981 as Instrument No. 81-12616 in Book 14016, Page 73 of Official Records of Orange County, California, requesting approval of a minor use permit.
2. The applicant proposes a tattoo studio (Personal Services, Restricted land use) in conjunction with an art gallery within an existing commercial tenant space.
3. The General Plan Land Use Element designation for the subject property is Corridor Commercial (CC) and it is located within the Commercial Corridor (CC) Zoning District.
4. The Coastal Land Use Plan category for the subject property is Commercial Corridor (CC-A) and it is located within the Commercial Corridor (CC) Coastal Zoning District.
5. A public hearing was held on June 15, 2017, 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 Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes the ongoing use of an existing building where there is negligible or no expansion of use. The proposed project will allow the operation of a tattoo studio and art gallery in an existing commercial tenant space.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020(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. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The General Plan Land Use Element designation for the site is CC. The CC designation is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity. The proposed project is consistent with this designation in that it will add an additional personal service use to the area.
2. The proposed physical improvements are limited to changes to the interior of an existing multi-tenant building. These improvements are of a nature that will not impede or discourage pedestrian activity.
3. The subject property is not part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located within the CC Zoning District consistent with the General Plan Land Use Element. See Fact in Support of Finding A1.
2. Within Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) of the Zoning Code, the CC District allows Personal Services, Restricted uses subject to the approval of a minor use permit.
3. The existing multi-tenant commercial building was constructed prior to off-street parking requirements in the Municipal Code; thus, it is considered legal nonconforming. NBMC Section 20.38.060(B)(1) allows a nonconforming use to change to a new use without providing additional parking given there is no intensification or enlargement and the new use requires no more than one parking space per 250 square feet of gross area. The proposed project is acceptable as it does not include an intensification or expansion of floor area and is required one parking space per every 250 square feet of gross floor area.

4. The project site is located within the CC Coastal Zoning District. Table 21.20-1 of NBMC Section 21.20.020 (Commercial Coastal Zoning Districts Land Uses) notes that a Personal Services, Restricted use is allowed ("A") within the CC Coastal Zoning District.
5. As the proposed project is the operation of a tattoo studio and art gallery in an existing commercial tenant space and there is no intensification of use or change to the parking requirement, a Coastal Development Permit is not required.

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 tattoo studio and art gallery will be located within an existing, approximately 1,200-square-foot tenant space. No increase in floor area and no further improvements are proposed.
2. The proposed operation will consist of two workstations. A maximum of two tattoo artists registered and licensed by the Orange County Health Department will provide the tattooing services. The artists will operate mostly by appointments with very limited "walk-in" services. No designated receptionist will be provided. The hours of operation for the business will be 10 a.m. to 10 p.m. daily.
3. The proposed tattoo studio use is a service use that will be complementary to the other uses in the commercial building and surrounding area, which include food service, retail sales, a beauty shop, and an art gallery. Its operating characteristics are similar to other service uses such as barber and beauty shops.
4. The proposed tattoo service business will provide a service for residents of the neighborhood and visitors to the area and will not require the provision of additional parking spaces on site.

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 project site has demonstrated that it is physically suitable to support the existing commercial development. The addition of a tattoo studio use within an existing commercial building will not alter the site's ability to provide public and emergency vehicle access and public services and utilities.

2. The proposed project will be located in a tenant space within an existing commercial building and will not involve any additional improvements of the space. The design, size, location, and operating characteristics of the use are compatible with the existing uses on the site and within the surrounding area.
3. The Public Works Department and Building and Life Safety Services Divisions have reviewed the project proposal and did not have any concerns regarding access, public services, or utilities provided to the existing development.

Finding:

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

Facts in Support of Finding:

1. The project has been reviewed and this approval includes conditions to establish the permitted hours of operation and the maximum number of tattoo artists allowed to operate on site at any one time.
2. Tattoo studio operators and artists are required to register with the Orange County Health Department and are regulated by the California Safe Body Art Act, which was enacted July 1, 2012, to ensure safe operating procedures are practiced. The primary artist is registered with the Orange County Health Care Agency. The studio will be subject to inspections to ensure it maintains proper sanitary facilities and that it meets all health regulations.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2017-006, 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 15TH DAY OF JUNE, 2017.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The hours of operation for the business shall be 10 a.m. to 10 p.m., daily.
3. There shall be no appointments or walk-in customers accepted after 9 p.m., daily.
4. The number of tattoo artists operating at one time shall be limited to two, and each artist shall be registered and licensed with the Orange County Health Department. Said license shall be made available upon request of the City's Code Enforcement Division at any time.
5. All tattoo services shall be conducted at "Station 1" or "Station 2" as depicted on the floor plan dated April 17, 2017.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the Conditions of Approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
8. This Minor Use Permit may be modified or revoked by the Zoning Administrator if it is determined that the proposed use 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.
9. All proposed signs shall be in conformance with the provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
10. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.
11. 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.

12. 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 use permit.
13. 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.
14. 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.
15. 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.
16. 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.
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 Ink Yard Tattoo Studio and Art Gallery Minor Use Permit including, but not limited to, Minor Use Permit No. UP2017-006 (PA2017-062). 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.