



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjjs, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending April 13, 2018.

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### ZONING ADMINISTRATOR ACTIONS APRIL 12, 2018

- Item 1: Fashion Island Hotel Comprehensive Sign Program No. CS2018-001 and Modification Permit No. MD2018-001 (PA2018-029)  
Site Address: 690 Newport Center Drive  
Action: Continued to 04/26/18 Zoning Administrator Meeting Council District 5
- Item 2: Sabo Residence Coastal Development Permit No. CD2017-104 (PA2017-243)  
Site Address: 1210 and 1220 West Bay Avenue  
Action: Approved by Resolution No. ZA2018-040 Council District 1
- Item 3: Garrett Residence Coastal Development Permit No. CD2017-004 (PA2017-018)  
Site Address: 225 East Bay Front  
Action: Approved by Resolution No. ZA2018-041 Council District 5
- Item 4: Campana Residence Coastal Development Permit No. CD2018-001 (PA2017-263)  
Site Address: 1236 West Ocean Front  
Action: Approved by Resolution No. ZA2018-042 Council District 1
- Item 5: Butler Residence Coastal Development Permit No. CD2018-019 (PA2018-043)  
Site Address: 224 Lexington Circle  
Action: Approved by Resolution No. ZA2018-043 Council District 5
- Item 6: Welker Residence Coastal Development Permit No. CD2018-003 (PA2018-005)  
Site Address: 1004 South Bay Front  
Action: Approved by Resolution No. ZA2018-044 Council District 5
- Item 7: Belling Residence Coastal Development Permit No. CD2018-002 (PA2018-004)  
Site Address: 2691 Bay Shore Drive  
Action: Approved by Resolution No. ZA2018-045 Council District 3

Item 8: Murphy Residence Coastal Development Permit No. CD2018-006 (PA2018-012)  
Site Address: 914 West Balboa Boulevard

Action: Approved by Resolution No. ZA2018-046 Council District 1

Item 9: Grant Thornton Signage Modification Permit No. MD2018-002 (PA2018-039)  
Site Address: 4695 Macarthur Court

Action: Approved by Resolution No. ZA2018-047 Council District 3

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.

Lt. Damon Psaros, NBPD (*Telecom Permit*)

Wendy Joe, Civilian Investigator, NBPD (*Massage Therapy – ABC License*)

Sgt. Brad Miller, NBPD (*Massage Therapy - ABC License*)

## RESOLUTION NO. ZA2018-040

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-104 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE, DETACHED GARAGE AND POOL, AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE, ATTACHED 3-CAR GARAGE, AND NEW SEAWALL LOCATED AT 1210 AND 1220 WEST BAY AVENUE (PA2017-243)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by McClean Design, with respect to property located at 1210 and 1220 West Bay Avenue, requesting approval of a coastal development permit.
2. The property is legally described as Lots 8, 9, and a portion of Lot 7, of Block 3, Tract 626.
3. A lot merger (LM2017-005) and associated coastal development permit (CD2017-055) were approved on September 14, 2017, that allowed Lots 8, 9, and a portion of Lot 7, Block 3, Tract 626 to be merged into one lot. The lot merger will be recorded once the structures onsite are demolished.
4. The applicant proposes a coastal development permit (CDP) to allow the demolition of an existing single-family residence, detached garage, and pool, and construction of a 12,749-square-foot, single-family residence with attached 760-square-foot 3-car garage. The project includes removal of the existing bulkhead and construction of a new bulkhead with associated features including new tiebacks and deadmen. No construction is proposed bayward of the existing bulkhead. The design includes hardscape, walls, landscaping, and drainage facilities.
5. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
6. The subject properties are located within the coastal zone. The Coastal Land Use Plan category is RSD-C (Single Unit Residential Detached – (10.0 - 19.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
7. A public hearing was held on April 12, 2018, 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.

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## 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 both the demolition and construction of up to three single-family residences. The proposed project consists of the demolition of one single-family residence, detached garage, and pool and the construction of a new 12,749-square-foot single-family residence and attached 760-square-foot 3-car garage.

## SECTION 3. REQUIRED FINDINGS.

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

### Finding:

- A. *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 14,688 square feet and the proposed floor area is 12,749 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line abutting West Bay Avenue, 25 feet along the other front setback on the bay, and 4 feet along each side property line.
  - c. The highest guardrail is less than 24 feet from established grade (9.72 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of three vehicles, complying with 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.

3. The development fronts the Newport Bay. The project site is protected by an existing bulkhead. The finished first floor elevation of the proposed dwelling is 9.75 feet (NAVD 88), which complies with the minimum 9.00 feet (NAVD88) elevation standard. The basement and all below grade development will have waterproofing at minimum of 12 inches above the finished floor (approximately 10.75 feet NAVD88).
4. A Coastal Hazards Report and Sea Level Rise Analysis (“Hazards Report”) was prepared by GeoSoils, Inc., dated December 8, 2017 for the project. The report concludes that the proposed project is reasonably safe from the shoreline erosion due to lack of waves or wakes that can erode sand from the beach. However, based on the Hazards Report, it is unlikely that the existing bulkhead at 9.4 feet NAVD88 could be increased in height to adapt to future sea level rise. Moreover, the concrete panels show signs of cracking with rust stains, which imply that the panel steel is jeopardized. The condition of the deadman/tiebacks is unknown, but based on the age of the bulkhead and the necessity to adapt to sea level rise, it is likely that the existing deadman/tie back system is inadequate. Thus, the project proposes a new bulkhead to protect the site and surrounding development from sea level rise, considering a 1.25-foot sea level rise (the low range of projected sea level rise over the 75-year design life of the structure based on estimates for sea level rise provided by the National Research Council 2012 SLR). The project proposes the replacement of the bulkhead to 10.18 MLLW (10.0 NAVD88), which is compliant with the current minimum City Standard of 10.0 MLLW (9.82 NAVD88). No development would occur bayward of the existing development.
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. The property is 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.
7. The property is adjacent to the bay and the proposed design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City’s storm drain system.

8. Pursuant to Municipal Code Section 21.35.050, 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 Commercial Development Resources, dated November 9, 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.
9. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant 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 on the Balboa Peninsula between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact, and be proportional to that impact. In this case, the project replaces an existing single-family residence, detached garage, and pool located on Bayfront lots with a new single-family residence and accessory structures. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Although the previous coastal development permit and lot merger approved in 2017 reduced the potential density onsite from two legal single-family building sites to one single-family building site, the site is currently developed and appears as one single-family residence on a single lot. Redevelopment of the site as a single-family residence would not increase the demand for public access.
2. Due to the increase in lot size as part of the previously approved lot merger, the side yard setbacks are required to be 4 feet on each side. Thus, potential view corridors along side yards could be enhanced compared to existing structures.
3. The subject lots are interior lots, and only visible to pedestrians and motorists traveling along West Bay Avenue. The project is designed and sited so as not to block or impede existing public access opportunities at the public beach at the 12<sup>th</sup> Street end, which is approximately 115 feet east of the site. The project site does not currently provide any views or public access from the street to the harbor.
4. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore,

an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas on the Bay and Lido Isle. However, the new single-family home complies with all applicable LCP development standards and will update the appearance of existing structures onsite. The new bulkhead would comply with the maximum height standard for fences and walls within the front setbacks, reaching a maximum height from existing grade of 42 inches. Thus, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-104, 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

## CONDITIONS OF APPROVAL

*(PROJECT SPECIFIC CONDITIONS ARE IN ITALICS)*

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 including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.*
3. *Prior to the 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. *Prior to the issuance of a building permit (excluding demolition permits), the approved lot merger (PA2017-115) shall be recorded.*
5. *Properties immediately adjacent to the site shall be monitored for ground motion during caisson placement and grading.*
6. *The dewatering system shall have sound attenuation blankets installed on all pumps and motors.*
7. *A 10 to 12 foot high fabric fence shall be placed at property lines to reduce dust and debris on properties immediately adjacent to the site.*
8. 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, the beach, wetlands or their buffers.



9. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
10. This Coastal Development Permit does not authorize any development seaward of the private property.
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 Erosion Control Plan.
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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
16. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
17. 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.
18. 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.
19. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
20. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the 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.

21. Prior to issuance of a building permits, the approved WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved WQMP and any changes could require separate review and approval by the Building Division.
22. 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.
23. 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.
24. 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.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
26. This Coastal Development Permit No. CD2017-104 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.
27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Sabo Residence including, but not limited to, Coastal Development Permit No. CD2017-104 (PA2017-243). 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. ZA2018-041

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-004 TO DEMOLISH AN EXISTING DUPLEX AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE LOCATED AT 225 EAST BAY FRONT (PA2017-018)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison Architect, with respect to property located at 225 East Bay Front, requesting approval of a coastal development permit.
2. The lot at 225 East Bay Front is legally described as Lot 22, Block 5, Section 5 of the Balboa Island Tract, in the City of Newport Beach, County of Orange, State of California.
3. The applicant proposes a coastal development permit for the demolition of an existing duplex and the construction of a new, 2,512-square-foot, three-story single-family residence including a 388-square-foot, two-car garage. The development also includes hardscape, drainage, and landscaping. The proposed development complies with all applicable development standards including height, setbacks and floor area limits. No deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Balboa Island) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential (30.0 – 39.9 DU/AC)) and it is located within the R-BI (Balboa Island) Coastal Zone District.
6. A public hearing was held on April 12, 2018, 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 demolition and construction of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing duplex and the construction of a new 2,512-square-foot single-family residence with an attached 388-square-foot, two-car garage in the R-BI Zoning District.

### SECTION 3. REQUIRED FINDINGS.

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

#### Finding:

- A. *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 2,900 square feet and the proposed floor area is 2,900 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 5 feet along the front property line face the waterfront, 3 feet along each side property line and 5 feet along the rear property line abutting the alley.
  - c. The highest guardrail is no more than 24 feet from established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height limitation.
  - d. The project includes garage parking for two vehicles, complying with the minimum two-car garage parking requirement.
2. The neighborhood is predominantly developed with two- and three-story, single-family and two-unit 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 and bulkhead. The public bulkhead is at a height of 7.75 feet (NAVD88). The finished first floor elevation of the interior living area of the proposed residence is 9.00 feet (NAVD88), which complies with the minimum required 9.00-foot (NAVD88) elevation standard.

4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by William Simpson & Associates, Inc. dated June 14, 2017 for the project. The report concludes that the proposed project is reasonably safe from coastal hazards for the next 75 years including shoreline movement, waves and wave run-up, and flooding with moderate future sea level rise projections. The current highest tides have reached approximately 7.62 feet (NAVD 88). Utilizing the Community Development Department policy of a 1.25-foot sea level rise, the existing bulkhead and finished floor will protect the site and surrounding development from sea level rise. The proposed finished floor is 9.00 feet (NAVD 88), which is consistent with the minimum 9.00 feet (NAVD 88) standard.
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 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.
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 JT Consulting Engineers, dated November 14, 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 species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. Public coastal views from the public sidewalk and beach located between the project site and the bay will not be affected by the proposed development.

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 on Balboa Island between the nearest public road and the sea or shoreline. The existing residential development does not currently provide nor does it inhibit public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing duplex located on a coastal lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. Lateral coastal access is provided by the bay front public sidewalk and public beach, located between the project site and the bay. Vertical access to the public bay front area is provided at various street-ends throughout Balboa Island, with the nearest vertical access point located at the Balboa Avenue street-end, approximately 160 feet north of the project site.
3. Public coastal views from the bay front public sidewalk and beach located between the project site and the bay will not be affected by the proposed development. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing duplex with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-004, 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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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. CD2017-004 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions), 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 a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the 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

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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 a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
11. 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.
12. The Applicant shall obtain Public Works review and approval of any private improvements proposed within the public right-of-way area.
13. 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.
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 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. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
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 six-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 the current property owner or agent.
21. 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 Garrett Residence including, but not limited to, Coastal Development Permit No. CD2017-004 (PA2017-018). 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. ZA2018-042

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-001 TO ADD A THIRD-STORY ROOF DECK AND AN ENCLOSED STAIRWELL TO AN EXISTING SINGLE-FAMILY DWELLING LOCATED AT 1236 WEST OCEAN FRONT (PA2017-263)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Gregory L. McCormick, PE, with respect to property located at 1236 West Ocean Front, requesting approval of a Coastal Development Permit.
2. The lot at 1236 West Ocean Front is legally described as Lot 10, Block 12, Tract 00234.
3. The applicant proposes a coastal development permit to allow the construction of a third-story roof deck and enclosed stairwell to the existing two-story, single-family dwelling. The enclosed stairwell with a pitched roof will provide access to the roof deck. The height of the existing dwelling will be increased by approximately eight feet to the ridge of the new pitched roof over the stairwell and by approximately two feet to the guardrail of the roof deck. The proposed development complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested. A remodel of the existing single-family dwelling was approved and is currently under construction. The remodel was determined to be exempt from the requirement of a coastal development permit. The addition of the third-story roof deck and stairwell enclosure increases the height by more than 10 percent of the existing height of the dwelling and causes the requirement for a coastal development permit. The stairwell enclosure increases the gross square footage of the dwelling by seven square feet.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-C) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. A public hearing was held on April 12, 2018, 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.

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## 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, because it has no potential to have a significant effect on the environment.
2. Class 3 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 addition of a third-story roof deck to one single-family residence in the Single-Unit Residential (R-1) zoning district.

## SECTION 3. REQUIRED FINDINGS.

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

### Finding:

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

### Facts in Support of Finding:

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 5,388 square feet and the existing floor area is being increased by seven square feet for a portion of the enclosed stairwell to 3,214 square feet.
  - b. The proposed development provides the minimum required setbacks, which are eight feet along the front property line abutting the public boardwalk along West Ocean Front, three feet along each side property line and five feet along the rear property line abutting the alley.
  - c. The new guardrail is less than 24 feet from established grade 12.19 feet North American Vertical Datum of 1988 (NAVD88) and the new sloped roof which is the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The existing single-family dwelling includes garage parking for a total of three vehicles, which is not changing.
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 existing development is located on private property along the public boardwalk adjacent the West Ocean Front beach. The beach in front of the boardwalk is approximately 500 feet wide before the Mean High Water Line of the Pacific Ocean, which diminishes water-related hazards. The addition of the third-story deck and the enclosed stairwell to access the deck is not subject to coastal hazards since it is on the third-story above the existing two-story single-family structure. The finish floor elevation of the existing dwelling is 13.38 feet (NAVD88), which complies with the minimum 9.00 feet (NAVD88) elevation standard
4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
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 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 runoff on-site. Any water not retained on-site is directed to the City's storm drain system.
7. Landscaping is not proposed as a part of this project.
8. The property is not located near designated Public Viewpoints 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 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.
2. The project site is located on the Balboa Peninsula between the nearest public road and the sea. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project is the addition of a third-story roof deck to an existing single-family residence located on a private lot adjacent to the public boardwalk and beach. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
3. The public beach also includes the 12-foot-wide public sidewalk providing lateral access and views of the Pacific Ocean in front of the project site. Vertical access to the boardwalk is provided from each street end for each block. In this case the street ends at 12<sup>th</sup> Street and 13<sup>th</sup> Street. The addition of the roof deck does not impact access to the public boardwalk or beach.

## SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-001, 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 12<sup>TH</sup> DAY OF APRIL, 2018.**

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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.
3. 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, the beach, wetlands or their buffers.
4. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
5. This Coastal Development Permit does not authorize any development seaward of the private property.
6. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
7. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
8. Trash and debris shall be disposed 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.
9. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.



10. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
11. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
12. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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.
13. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
14. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the 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.
15. 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.
16. 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.
17. 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.
18. 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.
19. This Coastal Development Permit No. CD2018-001 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.

20. 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 Campana Residence Roof Deck including, but not limited to, Coastal Development Permit No. CD2018-001 (PA2017-263). 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. ZA2018-043

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-019 TO REMOVE AN EXISTING SINGLE-STORY MANUFACTURED HOME AND INSTALL A NEW TWO-STORY MANUFACTURED HOME AND ATTACHED AWNING CARPORT LOCATED AT 224 LEXINGTON CIRCLE (PA2018-043)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Steve Almquist of Coastline Construction ("Applicant") on behalf of Mary Butler ("Manufactured Home Owner"), with respect to a manufactured home site located at 224 Lexington Circle, requesting approval of a coastal development permit.
2. The site is located within Bayside Village Mobile Home Park, legally described as Parcel 1 of Parcel Map No. 93-111.
3. The Applicant proposes the removal of an existing single-story manufactured home and the installation of a new two-story manufactured home. The development also includes an aluminum carport awning, hardscape, drainage, and landscaping. The development complies with all applicable standards and no deviations are requested.
4. The subject property is designated Multiple-Unit Residential ("RM") by the General Plan Land Use Element and is located within the Bayside Village Mobile Home Park Planned Community ("PC-1") Zoning District.
5. The subject site is located within the coastal zone. The Coastal Land Use Plan category is Multiple-Unit Residential – 10.0 – 19.9 DU/AC ("RM-C") and it is located within the Bayside Village Mobile Home Park ("PC-1") Coastal Zone District.
6. A public hearing was held on April 12, 2018, 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 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 removal of one single-family manufactured home and the installation of a new single-family manufactured home.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (“NBMC”) Section 21.52.015 (Coastal Development Permits, Findings and Decision), 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 development standards identified by the PC-1 Development Plan and the proposed design is in substantial conformance with the approved site plan.
  - a. The Project is within the confines of the manufactured home site lines.
  - b. The Project has been reviewed and approved by the Mobile Home Park Owner, as evidenced by the Application for Permit to Construct included with the application.
  - c. The Project includes a covered parking area for one vehicle, complying with the minimum parking requirement per site.
2. The Bayside Village Mobile Home Park is predominantly developed with single- and two-story, mobile/manufactured homes. The proposed design, bulk, and scale of the development is consistent with the existing pattern of development and expected future development consistent with applicable development standards.
3. The Bayside Village Mobile Home Park is comprised of Parcel 1 (South) and Parcel 2 (North) of Parcel Map No. 93-111. The Project site is located within the south parcel and is approximately 675 feet from the Newport Bay. It is separated from Newport Bay by two rows of manufactured home sites, Bayside Drive, and the entirety of the north parcel. The site is at an approximate elevation of between 13 and 14 feet based on the North American Vertical Datum of 1988 (NAVD88).

4. 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.
5. The building codes for construction and installation of a manufactured home are contained within the California Health and Safety Code. The State of California Department of Housing and Community Development (HCD) issues all construction permits. The applicant has provided evidence of approval from the State, as well as the park owner.
6. Proposed landscaping complies with NBMC Section 21.30.075 (Landscaping). A condition of approval is included that requires drought-tolerant 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 existing residential development neither provides nor inhibits public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family manufactured on an interior site located within an existing mobile/manufactured home park with a new single-family manufactured home. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities.
2. Bayside Drive bisects the north and south parcels of the Bayside Village Mobile Home Park and provides access to the Newport Dunes, which houses several coastal recreational opportunities for the public's use.
3. The mobile/manufactured home park abuts Coast Highway, a public coastal view road. The park is separated from the public right-of-way by an existing site wall that is approximately seven feet tall and provides for limited views across the park. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family manufactured home with a new single-family manufactured home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing pattern of development. Therefore, the project does not have the potential to

degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-019, 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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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. 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, the beach, wetlands or their buffers.
3. 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).
4. 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.
5. 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.
6. 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.
7. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
8. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
9. 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.
10. 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.

11. 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.
12. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
13. This Coastal Development Permit No. CD2018-019 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.
14. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Butler Residence including, but not limited to, Coastal Development Permit No. CD2018-019 (PA2018-043). 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. ZA2018-044

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-003 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 1004 SOUTH BAY FRONT (PA2018-005)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Ian Harrison, Architect (Applicant), on behalf of Amahoro LLC (Owner), with respect to property located at 1004 South Bay Front, requesting approval of a coastal development permit (CDP).
2. The property is legally described as Lot 3, Block 5, Section 2 of the Balboa Island Tract, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish an existing single-family residence and construct a new three-story, 2,449-square-foot, single-family residence with an attached 379-square-foot, two-car garage. The project includes hardscape, landscape, and subsurface drainage facilities. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-BI (Balboa Island) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-E (Two-Unit Residential, 30.0 – 39.9 DU/AC) and the property is located within the R-BI (Balboa Island) Coastal Zone District.
6. A public hearing was held on April 12, 2018, 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 demolition and construction of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 2,449-square-foot single-family residence with an attached 379-square-foot, two-car garage in the R-BI Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (NBMC) Section 21.52.015 (Coastal Development Permits, Findings and Decision), 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 total proposed floor area, including the residence and enclosed parking, is 2,828 square feet, which complies with the maximum allowable floor area limit of 2,828 square feet.
  - B. The proposed development will provide the minimum required setbacks, which are seven feet along the front property line abutting the bay front, five feet along the rear property line, and three feet along each side property line.
  - C. The highest guardrail is less than 24 feet and the highest roof ridge is no more than 29 feet, measured from the finished first floor level of 9.00 feet based on the North American Vertical Datum of 1988 (NAVD88), which complies with the maximum height limitation.
  - D. The project includes enclosed garage parking for two vehicles, in compliance with the minimum parking requirement for single-family residences in the R-BI (Balboa Island) Zoning District.
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 because the development meets all development standards for the construction of a single-family residence.
3. The development fronts the Newport Bay, but is separated from the shoreline by a public sidewalk and bulkhead. The finished first floor elevation of the interior living area of the proposed residence is 9.00 feet (NAVD88), which complies with the minimum required 9.00-foot (NAVD88) elevation standard.

4. The property is located in an area known for the potential of seismic activity and liquefaction. A project-specific geotechnical investigation prepared by EGA Consultants, LLC, dated June 28, 2017, provides recommendations relative to grading, drainage and foundation design. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved 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 proposed development will neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or adjacent area. A project-specific Coastal Hazards Analysis Report was prepared by William Simpson & Associates, Inc., dated November 6, 2017. The report concludes that flooding, wave run up, and erosion will not significantly impact this property over the life of the proposed development, and no additional protective device will be required during the economic life of the development, once the public bulkhead is improved. Work on the public bulkhead is currently underway and is anticipated to be completed by the end of April 2018.
6. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise).
7. The property is located within 100 feet of coastal waters. Pursuant to NBMC Section 21.35.030 (Construction Pollution Prevention Plan), a Construction Pollution Prevention Plan (CPPP) is required to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived from construction chemicals and materials. A CPPP has been prepared and included in the plan sets for review and approval prior to the issuance of construction permits. Construction plans and activities will be required to adhere to the approved CPPP
8. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), because the development contains more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) was prepared by JT Consulting Engineers, dated January 4, 2018. The WQHP will be required to be reviewed and approved by the City's Engineer Geologist prior to building permit issuance. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a low-impact development approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be required to comply with the approved WQHP
9. The proposed development includes a post-construction drainage system with drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site will be directed to the City's storm drain system.

10. All new landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 11 is included to require drought-tolerant, and prohibit invasive, species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
11. Public coastal views from the public sidewalk and beach located between the project site and the bay will not be affected by the proposed development.

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 existing residential development does not currently provide nor does it inhibit public coastal access. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a coastal lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities. Condition of Approval No. 20 requires the abutting public access area to remain open and unobstructed throughout construction.
2. Lateral coastal access is provided by the bay front public sidewalk and public beach, located between the project site and the bay. Vertical access to the public bay front area is provided at various street-ends throughout Balboa Island, with the nearest vertical access point located at the Coral Avenue street-end, approximately sixty feet west of the project site.
3. A 12-inch high planter is proposed in front of the property line and behind the public sidewalk, similar to other existing improvements throughout the neighborhood. The location and height of the planter and plantings are designed to comply with Section (D)(2) of City Council Policy L-6, specific to permitted structural encroachments on Balboa Island along South Bay Front. The Public Works Department will review all improvements within this area for compliance.
4. Public coastal views from the public sidewalk and beach located between the project site and the bay will not be affected by the proposed development. An investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family home with a new single-family home that complies with all applicable Local Coastal Program (LCP) development standards and

maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

**SECTION 4. DECISION.**

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-003, 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 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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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. CD2018-003 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions), 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 a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the 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

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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 a building permit, the approved CPPP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and any changes could require separate review and approval by the Building Division.
11. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
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. The Applicant shall obtain Public Works review and approval of an encroachment permit for any private improvements proposed within the public right-of-way area. Any such improvements shall comply with the development standards established by City Council Policy L-6.
14. 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.
15. 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.
16. 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 Construction Pollution Prevention Plan (CPPP).
17. 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.
18. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stockpiles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.

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19. 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.
  20. The abutting public sidewalk shall remain completely free and open throughout all construction and a minimum six-foot tall temporary construction barrier shall be erected.
  21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
  22. 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 Welker Residence including, but not limited to, Coastal Development Permit No. CD2018-003 (PA2018-005). 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. ZA2018-045

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-002 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 2691 BAY SHORE DRIVE (PA2018-004)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by C.J. Light Associates (“Applicant”), on behalf of 2691 Bayshore LLC (“Owner”), with respect to property located at 2691 Bay Shore Drive, requesting approval of a coastal development permit (“CDP”).
2. The property is legally described as Lot 12 of Tract 1014, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish an existing single-family residence and construct a new two-story, 2,037-square-foot, single-family residence with an attached 518-square-foot, two-car garage. The project will include hardscape, landscape, and subsurface drainage facilities all located within the confines of private property. The design complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B ((Single-Unit Residential Detached (6.0 – 9.9 DU/AC)) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on April 12, 2018, 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 demolition and construction of limited numbers of new, small facilities or structures including one single-family residence in a residential zone. The proposed project consists of the demolition of an existing single-family residence and the construction of a new 2,037-square-foot single-family residence with an attached 518-square-foot, two-car garage in the R-1 Zoning District.

### SECTION 3. REQUIRED FINDINGS.

In accordance with Newport Beach Municipal Code (“NBMC”) Section 21.52.015 (Coastal Development Permits, Findings and Decision), 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 total proposed floor area, including the residence and enclosed parking, is 2,555 square feet, which complies with the maximum allowable floor area limit of 5,708 square feet.
  - B. The proposed development will provide the minimum required setbacks, which are ten (10) feet along the front property line abutting Bay Shores Drive, ten (10) feet along the rear property line, and four (4) feet along each side property line.
  - C. The highest guardrail is no more than 24 feet and the highest roof ridge is no more than 29 feet, measured from the established grade level of 12.58 feet based on the North American Vertical Datum of 1988 (“NAVD88”), which complies with the maximum height limitation.
  - D. The project includes enclosed garage parking for two vehicles, in compliance with the minimum parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one- and two-story, single-family residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.

3. The project site is located approximately 160 feet from the mean high tide line and is separated from the water by Bay Shore Drive, a row of existing residential development, and a private beach area. The finished first floor elevation of the proposed residence is 13.97 feet (NAVD88), which exceeds the minimum required 9.00-foot (NAVD88) elevation standard.
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 project design addresses water quality with a construction erosion control plan that outlines temporary Best Management Practices (BMPs) to be implemented during construction to minimize erosion and sedimentation, and to minimize pollution of runoff derived by construction chemicals and materials. No water quality impacts to coastal waters are anticipated based upon the location and elevation of the property.
6. The property is not located on the shoreline nor is it located within 100 feet of coastal waters. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
7. New landscaping will be verified for compliance with NBMC Section 21.30.075 (Landscaping). Condition of Approval No. 10 is included to require drought-tolerant, and prohibits invasive, species. Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The property is not located near designated public viewpoints 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 located between the nearest public road and the sea or shoreline in the private community of Bayshores. Developed in 1941, Bayshores is a 258-lot single-family gated community located on the Lido Channel southwest of the Coast Highway and Newport Bay Bridge. The 39-unit Anchorage Apartment complex is also located within the community. The community is accessible from Coast Highway via Bay Shores Drive, a

private street. The shoreline is on the south and east sides of the community and consists of bulkheads and two small sandy beaches.

2. Coastal Land Use Plan Policy 3.1.5-3 requires public access consistent with public access policies for any new development in private/gated communities causing or contributing to adverse public access impacts. Implementation Plan Section 21.30A.040 (Determination of Public Access/Recreation Impacts) requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on a coastal lot with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
3. The residential lot does not currently provide nor does it inhibit public coastal access. Vertical and lateral access to the bay front is available adjacent to the Bay Shores community at the Balboa Bay Club, approximately 1,500 feet from the subject property.
4. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project is located on a coastal lot and will replace an existing single-family home with a new single-family home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

#### SECTION 4. DECISION.

#### **NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-002, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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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. CD2018-002 shall expire unless exercised within 24 months from the date of approval as specified in NBMC Section 21.54.060 (Time Limits and Extensions), 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. 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 Construction Pollution Prevention Plan (CPPP).
8. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
9. Prior to issuance of a building permit, the Applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the 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.
10. Prior to issuance of a building permit, the approved CPPP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved CPPP and any changes could require separate review and approval by the Building Division.

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11. Prior to the issuance of a building permit, the Applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species, and water efficient irrigation design. The plans shall be approved by the Planning Division.
  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 a 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. 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.
  16. 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.
  17. 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.
  18. 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.
  19. 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 Belling Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-002 (PA2018-004). 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. ZA2018-046

### A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-006 FOR A NEW DUPLEX LOCATED AT 914 WEST BALBOA BOULEVARD (PA2018-012)

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by R.A. Jeheber, with respect to property located at 914 West Balboa Boulevard, and legally described as a portion of Lot 8 of Block 109, requesting approval of a Coastal Development Permit.
2. The applicant proposes the demolition of an existing single-family residence and the construction of a new 3,245-square-foot duplex with a 365-square-foot attached garage and two covered carports. 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 Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential Detached (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-D) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on April 12, 2018, 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 duplex. The proposed project is a new duplex 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 3,610 square feet and the proposed floor area is 3,610 square feet.
  - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting West Balboa Boulevard and 3 feet along each side property line. There is no required setback abutting the 20-foot rear alley.
  - c. The highest guardrail/parapet is 23 feet from established grade and the highest ridge is 29 feet from established grade. The proposed development complies with all height requirements.
  - d. The proposed development provides a two-car garage and two-space carport, meeting the minimum garage requirement for a duplex.
  - e. The proposed development meets the minimum 9.0 (NAVD88) top of slab elevation requirement for interior living areas of new structures.
2. The neighborhood is predominantly developed with two- and three-story single-family residences and duplexes. 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 240 feet from the nearest coastal waters. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) and a Construction Pollution Prevention Plan (CPPP) are not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain runoff 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.
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.

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 on the Balboa Peninsula between the nearest public road and the sea. Implementation Plan Section 21.30A.040 requires that the provision of public access bear a reasonable relationship between the requirement and the project's impact and be proportional to the impact. In this case, the project replaces an existing single-family residence located on an inland lot with a new duplex. Therefore, the project does not involve a change in land use or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project may be located within the viewshed of distant public viewing areas. However, the project is located on an inland lot and will replace an existing single-family home with a duplex that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-006, 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 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 12<sup>TH</sup> DAY OF APRIL, 2018.**



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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. CD2018-006 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 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.
9. 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.
10. 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.

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. 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.
13. 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 Murphy Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-006 (PA2018-012). 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. ZA2018-047

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2018-002 FOR AN INCREASE IN SIGN NUMBER AND AREA, LOCATED AT 4695 MACARTHUR COURT (PA2018-039)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by TFN Architectural Signage, with respect to property located at 4695 Macarthur Court, and legally described as Parcel 2 of Resubdivision No. 786, requesting approval of a modification permit.
2. The applicant is requesting approval of a modification permit to authorize signage to identify a major tenant at the top of an existing 214-foot, 6-inch tall office building. The applicant is seeking the following deviations from the sign standards of the Koll Center Planned Community (PC-15):
  - a) Two signs per façade, on two facades, where PC-15 allows for a maximum of one sign per façade, on a maximum of two facades. The proposed signage on each façade consists of a text sign (207 square feet) and a logo sign (100 square feet);
  - b) Sign area of 207 square feet for the Grant Thornton text signs, located on the façade facing Campus Drive and the façade facing Macarthur Boulevard. PC-15 allows a maximum sign area of 200 square feet for wall signs (3.5-percent increase).
3. The subject property is located within the Koll Center Planned Community (PC-15) and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 12, 2018 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

## SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15311, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 11 (Accessory Structures).
2. Class 11 consists of construction or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to signs.

## SECTION 3. REQUIRED FINDINGS.

Pursuant to Section 20.42.110 of the Newport Beach Municipal Code, deviations in sign height greater than twenty (20) percent, sign area greater than thirty (30) percent, and sign number are subject to the approval of a modification permit. In accordance with Section 20.52.050 (Modification Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

### Finding:

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

### Facts in Support of Finding:

1. The subject property is located in the Koll Center Planned Community (PC15). The increase in number and area of signs is compatible with the existing development in the neighborhood because large office buildings are common within the Koll Center that use similar signage and logos for identification purposes. The neighboring office building at 4675 Macarthur Court has two wall signs that are approximately 314 square feet in area including text and logo.
2. The building façades measure 144 feet in width and 214 feet 6 inches in height on both proposed building facades. Given the width and height of the building facades, the increased area and number of the wall signs are compatible within the overall massing and bulk of the building.

### Finding:

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

### Facts in Support of Finding:

1. The proposed wall signs on the two facades serves as the main identification for the office building. The proposed signs on the façade facing Campus Drive will serve motorists travelling west on Campus Drive. The proposed signs on the



façade facing Macarthur Boulevard will serve motorists travelling east on Campus Drive, as well as motorists travelling south on Macarthur Boulevard. Proposed signs on both facades will allow motorists coming from the 405 and 55 freeways to identify and locate the major tenant of the office building.

2. The existing office building is located in the center of a large office complex with several existing high-rise and multi-story buildings. The complex is surrounded by large trees on three major frontages (Birch Street, Macarthur Boulevard, and Campus Drive). Although the office building is 214 feet 6 inches tall, it is set back approximately 450 feet from Macarthur Boulevard and 180 feet from Campus Drive, making it difficult to identify when travelling along those streets. The increase in area and number of wall signs will provide improved visibility to motorists trying to identify the building.

Finding:

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

Facts in Support of Finding:

1. The purpose and intent of the sign regulations is to provide users adequate identification while preserving and enhancing the community's appearance. The regulation of sign area and number is to ensure that signage does not overwhelm a building façade and create clutter. The proposed logo sign and text sign on each facade combines for a total of approximately 307 square feet, which is less than one (1) percent of the overall building façade.
2. The proposed increase in the maximum number and area of signs does not interfere with the purpose and intent of the Zoning Code as it provides for adequate identification of the site while guarding against the excessive and confusing proliferation of signs. The proposed increase addresses the practical difficulty of reduced visibility for motorists traveling in heavy vehicular traffic on Macarthur Boulevard, Campus Drive, and Birch Street.
3. Due to the large size of the building facades, the increased number and area of the wall signs are necessary to provide identification for the office building.

Finding:

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

Facts in Support of Finding:

1. The requested increase in number and area is in scale and similarly placed as other signs in the surrounding area and will not be detrimental to surrounding owners and occupants, the neighborhood, or the general public.
2. The alternative of providing signage per PC-15 standards would result in smaller signage that is out of scale with the large façade of the building and provide inadequate signage that would not be easily visible to motorists on Macarthur Boulevard, Campus Drive, and Birch Street.

Finding:

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

Facts in Support of Finding:

1. Approval of the application to increase the number and area of wall signs does not change the density or intensity of use.
2. The building does not have any other tenant identification signs on the exterior of the building so the increased size of the signs will not detract from the building's exterior.
3. The increased number and area of the wall signs will provide better visual direction for the public from the surrounding public roadways and from a greater distance without detracting from the building's overall aesthetic.
4. The location of the wall signs on the two building facades of the existing building does not affect views or impact the surrounding area since they are located on the existing building.
5. Tall office buildings are common within the Koll Center area and typically have larger wall signs for major tenants to provide building identification at the top of buildings.

SECTION 4. DECISION.

**NOW, THEREFORE, BE IT RESOLVED:**

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2018-002, subject to the conditions set forth in Exhibit A and parameters denoted in Exhibit B, 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 12<sup>th</sup> DAY OF APRIL, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**

**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, building elevations, and sign details stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. Signs shall comply with the limitations specified in the Sign Matrix included in Exhibit B.
3. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
4. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Modification Permit.
5. A building permit shall be obtained prior to commencement of installation of the signs.
6. The signs shall be illuminated in accordance with the provisions of Section 20.42.060.H of the Newport Beach Municipal Code.
7. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained 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. A copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
9. 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.
10. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
11. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's

approval of the Grant Thornton Signage including, but not limited to, Modification Permit No. MD2018-002 (PA2018-039). 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.