



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator for the week ending April 27, 2018.

ZONING ADMINISTRATOR ACTIONS APRIL 26, 2018

- Item 1: Fashion Island Hotel Sign Program No. CS2018-001 and Modification Permit No. MD2018-001 (PA2018-029)
Site Address: 690 Newport Center Drive
Action: Approved by Resolution No. ZA2018-039 Council District 5
- Item 2: Chamma Residence Coastal Development Permit No. CD2018-016 (PA2018-037)
Site Address: 1820 West Balboa Boulevard
Action: Approved by Resolution No. ZA2018-048 Council District 1
- Item 3: Thon Residence Coastal Development Permit No. CD2018-015 (PA2018-036)
Site Address: 109 26th Street
Action: Approved by Resolution No. ZA2018-049 Council District 1
- Item 4: Engstrom Residence Coastal Development Permit No. CD2017-111 (PA2017-262)
Site Address: 115 29th Street
Action: Approved by Resolution No. ZA2018-050 Council District 1
- Item 5: Bast Residence Coastal Development Permit No. CD2018-009 (PA2018-023)
Site Address: 1721 East Balboa Boulevard
Action: Approved by Resolution No. ZA2018-051 Council District 1
- Item 6: Gladstone-Lamas Residence Coastal Development Permit No. CD2018-008 and Modification Permit No. MD2018-003 (PA2018-021)
Site Address: 1100 West Balboa Boulevard
Action: Continued to 05/10/18 Council District 1
- Item 7: Howell Mountain Vineyard Company, LLC Minor Use Permit No. UP2018-003 (PA2018-038)
Site Address: 201 Shipyard Way, Suite 3
Action: Approved by Resolution No. ZA2018-053 Council District 1
- Item 8: Pandor Bakery Minor Use Permit Amendment No. UP2018-004 (PA2018-045)
Site Address: 1126 Irvine Avenue

Item 9: Annual Review of Development Agreement for North Newport Center DA2007-002 (PA2009-023)

Site Address: Fashion Island; Block 100, Block 400, Block 500, Block 600, and Block 800 of Newport Center Drive; and San Joaquin Plaza

Action: The Zoning Administrator found that North Newport Center Planned Community Annual Review was in good faith compliance with the terms of the Development Agreement.

Council District

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

Wendy Joe, Civilian Investigator, NBPD (*Massage Therapy – ABC License*)
Sgt. Brad Miller, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2018-039

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COMPREHENSIVE SIGN PROGRAM NO. CS2018-001 AND MODIFICATION PERMIT NO. MD2018-001 TO AMEND COMPREHENSIVE SIGN PROGRAM NO. CS2006-001 AND REPLACE A MONUMENT SIGN LOCATED AT 690 NEWPORT CENTER DRIVE (PA2018-029)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Shawna Schaffner of CAA Planning, Inc. representing the Irvine Company, with respect to property located at 690 Newport Center Drive, and legally described as Parcel 3 of Lot Line Adjustment 2011-001, amending a portion of an existing Comprehensive Sign Program and requesting approval of a Modification Permit.
2. The applicant proposes an amendment to Comprehensive Sign Program No. CS2006-001 (PA2014-072) and a modification permit to modify an existing monument sign (Sign Type A) for the Fashion Island Hotel. The proposed 112-square-foot monument sign is 10 feet in height where the existing sign program limits the sign height to 5 feet 2.4 inches. If approved, this Comprehensive Sign Program and Modification Permit would supersede Comprehensive Sign Program No. CS2006-001 (PA2014-072).
3. The subject property is located within the Block 600 sub-area of the North Newport Center Planned Community (PC-56) Zoning District and the General Plan Land Use Element category is Mixed-Use Horizontal (MUH3).
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 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. The Zoning Administrator continued the item to the April 26, 2018, Zoning Administrator hearing at the April 12, 2018 meeting.
6. A public hearing was held on April 26, 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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15311 under Class 11 (Accessory Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. Class 11 exempts construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to on-premise signs. The proposed signs are incidental and accessory to the principal commercial use of the property and do not intensify or alter the use.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

SECTION 3. REQUIRED FINDINGS.

In accordance with [Section 20.42.120 \(Comprehensive Sign Program\)](#) of the Newport Beach Municipal Code, the following standards and facts in support of such standards are set forth:

Standard

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

Facts in Support of Standard

1. The proposed Comprehensive Sign Program complies with the purpose and intent of Newport Beach Municipal Code Chapter 20.42 (Sign Standards) and the PC-56 (North Newport Center Planned Community) Zoning District sign standards because it provides the hotel with adequate identification while guarding against an excessive proliferation of signage. It preserves and enhances community appearance by regulating the type, size, location, quantity, and illumination of signs. Through said regulations, the Comprehensive Sign Program will enhance the safety of motorists and pedestrians by minimizing the distraction of signs, as well as to protect the life, health, property, and general welfare of City residents and visitors.
2. The purpose of a comprehensive sign program is to integrate all of a project's signs. A comprehensive sign program provides a means for the flexible application of sign regulations for projects that require multiple signs in order to provide incentive and latitude in the design and display of signs, and to achieve, not circumvent, the purpose of Chapter 20.42 and the sign standards of the PC-56 (North Newport Center Planned Community)

Zoning District. This approval integrates all of the signs for the subject property while meeting the purpose and intent of Chapter 20.42 and the sign standards of the PC-56 (North Newport Center Planned Community) Zoning District.

3. The Comprehensive Sign Program is consistent with the Citywide Sign Design Guidelines Manual because the proposed signs are compatible with the building design in terms of scale, size, and materials. As proposed, the signs effectively communicate a commercial message without creating sign clutter through legible text that contrasts with the background. The location and size of the signs do not dominate, but rather are consistent with the proportions of the building façade where they are located.
4. The proposed Monument Sign, Sign Type A, is an allowed sign type pursuant to the PC-56 sign standards. The change in monument sign height would remain in substantial conformance with the Site Development Review No. 32 because the sign location remains the same.
5. The Parapet Wall Sign, Sign Type B, is authorized under Modification Permit No. MD2012-018 (PA2012-174) and will remain unchanged in the comprehensive sign program.
6. The existing Porte-Cochere Building Sign, Sign Type C, will provide for identification located on an elevation at the eyebrow level where the architectural design of the porte-cochere suggests placement of a sign. Sign Type C will be limited to a maximum of one 34-square-foot sign. The proposed sign will maintain a consistent sign pattern and is designed to fit with the overall scale of the building and its relationship to Newport Center Drive and Santa Cruz Drive.
7. The existing Restaurant Identification Sign, Sign Type D, is an allowed sign type pursuant to the PC-56 sign standards and will provide adequate identification for the entryway to the restaurant and lounge components of the hotel.

Standard

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

Facts in Support of Standard

1. The 5.3-acre site is developed with a large hotel building and related parking structure. The number and location of signs will not contribute to an overabundance of signage that will have a detrimental effect on the neighborhood.
2. Proposed signs will not obstruct public views from adjacent roadways because there are no public views through or across the subject property.

3. Proposed signs, including the new monument sign, Sign Type A, will not interfere with sight distance from any street, driveway, or parking area. The increased sign height will make this monument sign consistent with the height and architectural style of other monument signs located throughout the Newport Center area.
4. The Parapet Wall Sign, Sign Type B, is authorized under Modification Permit No. MD2012-018 (PA2012-174) and will remain unchanged in the comprehensive sign program.
5. The Porte-Cochere Building Sign, Sign Type C integrates well with the character and architectural style of the building by complementing and not overstating the porte-cochere structure.
6. The Restaurant Identification Sign, Sign Type D, provides a pedestrian- and vehicle-oriented sign at the street level on Newport Center Drive that blends well with the existing landscaping along the sidewalk.

Standard

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

Facts in Support of Standard

1. The proposed Comprehensive Sign Program addresses all project signage. Temporary and exempt signs not specifically addressed in the sign program shall be regulated by the provisions of Chapter 20.42 (Sign Standards) of the Zoning Code and the PC-56 (North Newport Center Planned Community) regulations.

Standard

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

Facts in Support of Standard

1. The Comprehensive Sign Program has been designed to be effective for the hotel and restaurants that occupy the building by providing sign opportunities for adequate identification.
2. The Comprehensive Sign Program establishes allowed type, number, location, and area of signage with flexibility to accommodate any existing and future hotel needs.
3. It is not anticipated that future revisions to the Comprehensive Sign Program will be necessary to accommodate changes in uses. However, the Community Development Director may approve minor revisions to the Comprehensive Sign Program if the intent of the original approval is not affected.

Standard

- E. *The program shall comply with the standards of this Chapter [Chapter 20.42], except that deviations are allowed with regard to sign area, total number, location, and/or height of signs to the extent that the Comprehensive Sign Program will enhance the overall development and will more fully accomplish the purposes and intent of this Chapter [Chapter 20.42].*

Facts in Support of Standard

1. The Comprehensive Sign Program allows for deviations with regard to the number, location, and placement of building or wall signs throughout the hotel site. The approval conforms to all other standards of Zoning Code Chapter 20.42 (Sign Standards) as well as the PC-56 (North Newport Center Planned Community) sign standards, and enhances the overall development by integrating all of the project's signs with the overall site and structure design into a unified architectural statement.
2. The number of signs is reasonable given the use of the structure, size, and location of the building. The total allowed sign area for each primary frontage and secondary frontage does not deviate from the maximum permitted by the Zoning Code or the PC-56 sign standards.
3. The proposed Monument Sign, Sign Type A, will be situated in the same general location as the existing monument sign. The new sign will be taller but narrower than the existing monument sign and will have the same area as the existing monument sign.
4. [Section 20.42.120 \(Comprehensive Sign Program\)](#) of the Zoning Code allows the Zoning Administrator to approve comprehensive sign programs provided that the sign area is not increased by more than 30 percent or the letter height by more than 20 percent. Increases above these limits are allowed with the approval of a Modification Permit as detailed in Chapter 20.52 (Modification Permits) of the Zoning Code. The proposed monument sign is authorized in conjunction with a modification permit for sign area and height.
8. The Parapet Wall Sign, Sign Type B, is authorized under Modification Permit No. MD2012-018 (PA2012-174) and will remain unchanged in the comprehensive sign program.
5. The Comprehensive Sign Program allows for an additional building sign to be placed on the porte-cochere as Sign Type C. This sign helps to enhance the identification and architectural statement of the hotel without creating a proliferation of signage. The increased sign height for Sign Type C helps to enhance its appearance on the porte-cochere and will not appear out of scale or overly large given the existing development pattern on the hotel site.
6. The increased sign heights for Restaurant Identification Signs, Sign Type D, allow for appropriate visibility of hotel amenities along Newport Center Drive and do not appear out of scale or overly large given the existing development pattern on the hotel site.

Standard

- F. The approval of a Comprehensive Sign Program shall not authorize the use of signs prohibited by this Chapter [Chapter 20.42].*

Facts in Support of Standard

1. The Comprehensive Sign Program does not authorize the use of prohibited signs.

Standard

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

Facts in Support of Standard

2. The Comprehensive Sign Program contains no regulations affecting sign message content.

A modification permit is requested to allow the Monument Sign to exceed the height limit for Sign Type A under Comprehensive Sign Program No. CS2006-001. 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:

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

Facts in Support of Finding:

1. Larger and taller buildings are common within the Newport Center area and must provide adequate identification and direction to the public.
2. The proposed project is to replace an existing monument sign in the same location. The height of proposed Sign Type A is common throughout the Newport Center area and is architecturally consistent with other monument signs located throughout the Newport Center area.

Finding:

- I. 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. Due to the single point of entry into the hotel property and the large number of high-rise buildings within the vicinity of the hotel, a taller sign is necessary to improve visibility for the general public.
2. The maximum 36-inch letter/logo height on the monument sign, Sign Type A, is consistent with the maximum height allowed in the Zoning Code for signage.

Finding:

- J. 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 Fashion Island Hotel is located in Block 600 of Newport Center among several existing high-rise and multi-story buildings making visibility of the site location and identification more difficult for the general public.
2. The increased height of the monument sign, Sign Type A, is appropriate to the scale and height of the buildings in the area and is necessary to provide adequate visibility within the office and commercial portion of North Newport Center.

Finding:

- K. 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. A monument sign has been at this location since the original construction of the hotel in 1991. The existing monument sign does not provide sufficient visibility at its current 5-foot 2.4-inch height. A taller monument sign as proposed for Sign Type A provides area for a larger letter size to improve visibility. It also provides space to identify the two restaurants located at the hotel, which are open to the public.
2. Providing additional ground signs as an alternative could be detrimental and adversely impact circulation and contribute to sign clutter; while enlarging the existing wall signs provides a design solution to provide greater visibility and identification for the hotel with less impact, and without contributing to sign clutter on the ground.

Finding

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

Facts in Support of Finding:

1. The size of the signs are within the scale of their surroundings and will not adversely affect or be detrimental to persons or property in the neighboring area.
2. The increased height of the Monument Sign, Sign Type A, will provide better visual direction for the public from the surrounding roadways and at a greater distance.
3. The location of the replaced Monument Sign, Sign Type A, does not affect views or impact the surrounding area.
4. The project has been reviewed and conditioned to ensure the new sign will be safely located outside the vehicular sight distance area.
5. The proposed Monument Sign, Sign Type A, will provide appropriate address signage to provide for emergency vehicle identification of the site.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Comprehensive Sign Program No. CS2018-001 and Modification Permit No. MD2018-001 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 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Comprehensive Sign Program No. CS2006-001 (PA2014-072), which upon vesting of the rights authorized by this Comprehensive Sign Program amendment and Modification Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF APRIL, 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT “A”**CONDITIONS OF APPROVAL**
*(Project-specific conditions are in italics)***PLANNING**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. All proposed signs shall be in conformance with the approved Comprehensive Sign Program for the project site and provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
3. Comprehensive Sign Program No. CS2018-001 and Modification No. MD2018-001 shall expire unless exercised within 24 months from the date of approval as specified in [Section 20.54.060 \(Time Limits and Extensions\)](#) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
6. *The Parapet Wall Signs, Sign Type B, shall continue to adhere to the findings and conditions of approval under Modification Permit No. MD2012-018 (PA2012-174).*
7. *Signs shall be maintained in a clean and orderly condition.*
8. *The sign area shall be measured by two perpendicular sets of parallel lines that surround the proposed sign copy area.*
9. *Illuminated signs shall be regulated in accordance with the provisions of [Section 20.42.070 \(Standards for Permanent Signs\)](#) of the Newport Beach Municipal Code. If, in the opinion of the Community Development Director, existing illumination creates an unacceptable negative impact on surrounding land uses or sensitive habitat areas, the Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.*
10. *Any future revisions or changes to the signs approved by this Comprehensive Sign Program due to a change in the use of the building shall be reviewed and approved by the Planning Division, so long as the sign size, copy configuration, and number of signs authorized by this approval does not substantially change or increase. The mandatory reduction or elimination of signs shall be exercised as necessary. Revisions that would*

substantially deviate from the original approval shall require approval of a new/revised comprehensive sign program by the Zoning Administrator.

11. 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.
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. 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.
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 **Fashion Island Hotel Comprehensive Sign Program and Modification Permit** including, but not limited to, **Comprehensive Sign Program No. CS2018-001 and Modification Permit No. MD2018-001 (PA2018-029)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Fire Department Conditions

15. *All commercial buildings shall have numbers or addresses placed above or immediately adjacent to all doors that allow Fire Department access. In no case shall the numbers be less than four inches in height with a one-half inch stroke. Address numbers shall contrast with their background, and shall be either internally or externally illuminated to be visible at night. The proposed Monument Sign, Sign Type A, shall have numbers or addresses to aid Fire Department access.*

Building Division Conditions

16. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

Public Works Conditions

17. *All work performed within the public right-of-way shall be reviewed and approved by the Public Works Department under an encroachment permit/agreement if required.*
18. *The Monument Sign location, Sign Type A, shall be outside the limited use area per City Standard 110-L. This sign shall be located entirely on private property and outside of all easements.*

RESOLUTION NO. ZA2018-048

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-016 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 1820 WEST BALBOA BOULEVARD (PA2018-037)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Kevin Schley, of Kevin Schley & Associates (“Applicant”), on behalf of Omar Chamma (“Owner”), with respect to property located at 1820 West Balboa Boulevard, requesting approval of a coastal development permit (“CDP”).
2. The property is legally described as Lot 11, Block 118 of Tract 515, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish two existing dwelling units and a two-car garage, and construct a new three-story, 3,554-square-foot, single-family residence including an attached 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 RT (Two-Unit Residential) by the General Plan Land Use Element and is located within the R-2 (Two-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RT-D (Two-Unit Residential - 20.0 – 29.9 DU/AC) and the property is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on April 26, 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 construction and location 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 two existing dwelling units and a two-car garage, and the construction of a new 3,554-square-foot single-family residence including an attached two-car garage in the R-2 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 3,554 square feet, which complies with the maximum allowable floor area limit of 3,558 square feet.
 - B. The proposed development will provide the minimum required setbacks, which are five (5) feet along the front property line abutting Balboa Boulevard and three (3) feet along each side property line. There is no required rear setback.
 - 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 9 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 two-story, one- and two-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 260 feet from the mean high tide line and is separated from the water by Vilelle Place, a row of existing residential development, Bay Avenue and the public beach. The finished first floor elevation of the interior living area of the proposed residence is 9.00 feet based on the North American Vertical Datum of 1988 (NAVD88) elevation standard, which complies with the minimum required 9-foot (NAVD88) elevation standard. The finished floor elevation of the garage (i.e., not living

area) is 7.13 feet (NAVD88) with an approximately 2-percent slope driveway connecting to the existing street.

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. 11 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 on the Balboa Peninsula, 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 two existing dwelling units and a two-car garage 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.

2. The residential lot does not currently provide nor does it inhibit public coastal access. Lateral access is provided by public beach area along the bay front, including the nearby Marina Park Community Center. Vertical access is provided at the end of 19th Street, located approximately 135 feet west of the project site, and by 18th Street and the Marina Park Community Center located approximately 250 feet to the east.
3. 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 will replace two existing dwelling units and a two-car garage with a new single-family residence 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. CD2018-016, 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 26TH DAY OF APRIL, 2018.



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. CD2018-016 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 applicant shall submit a final construction erosion control plan. The plan shall be subject to 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. 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 Chamma Residence including, but not limited to, Coastal Development Permit No. CD2018-016 (PA2018-037). 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. ZA2018-049

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-015 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 109 26TH STREET (PA2018-036)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by John T. Morgan Jr., Architect (“Applicant”), on behalf of Carl Thon (“Owner”), with respect to property located at 109 26th Street, requesting approval of a coastal development permit (“CDP”).
2. The property is legally described as Lot 31, Block 26 of Tract 512, 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, 1,903-square-foot, single-family residence with an attached 373-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-D (Single-Unit Residential Detached, 20.0 – 29.9 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 26, 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 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 1,903-square-foot single-family residence with an attached 373-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 2,276 square feet, which complies with the maximum allowable floor area limit of 2,282 square feet.
 - B. The proposed development will provide the minimum required setbacks, which are five (5) feet along the front property line, five (5) feet along the rear property line, and three (3) 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 10.96 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. Newer residences may have a rooftop deck and a partial third story. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and anticipated future development.
3. The project site is an inland lot, located approximately 400 feet from the mean high tide line. The site is separated from the public beach and water by a row of existing residential

development and the Ocean Front rights-of-way. The finished first floor elevation of the proposed residence is 11.25 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. 11 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. 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 an inland 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.

2. The inland residential lot does not currently provide nor does it inhibit public coastal access. Lateral coastal access is provided nearby along the Ocean Front walkway and adjacent public beach located approximately 120 feet from the project site. Vertical access points are provided at street-ends throughout the neighborhood, including 26th Street.
3. 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 an inland 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. CD2018-015, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified Local Coastal Program and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF APRIL, 2018.



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. CD2018-015 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 applicant shall submit a final construction erosion control plan. The plan shall be subject to 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 Thon Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-015 (PA2018-036). This indemnification shall

include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by Applicant, City, and/or the parties initiating or bringing such proceeding. The Applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The Applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2018-050

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-111 TO DEMOLISH AN SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW DUPLEX LOCATED AT 115 29TH STREET (PA2017-262)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Felipe Contreras of West Coast Drafting, with respect to property located at 115 29th Street, and legally described as a portion of Lot 28 of Block 29, 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 2,853-square-foot duplex with a 374-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– (30.0 - 39.9 DU/AC) (RT-E) and the Coastal Zoning District is Two-Unit Residential (R-2).
5. A public hearing was held on April 26, 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 3,230 square feet and the proposed floor area is 3,227 square feet.
 - b. The proposed development complies with the required setbacks, which are 5 feet along the property line abutting 29th Street, 3 feet along each side property line, and 5 feet along the property line abutting the alley.
 - c. The highest guardrail/parapet is 23 feet from established grade and the highest ridge is 28 feet and 2 inches 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 460 feet from the nearest coastal waters. Due to the large distance from coastal waters, a Water Quality Management Plan (WQMP) is not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
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 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. CD2017-111, 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 26TH DAY OF APRIL, 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans, and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2017-111 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 Engstrom Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2017-111 (PA2017-262). 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. ZA2018-051

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-009 TO CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 1721 EAST BALBOA BOULEVARD (PA2018-023)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by William Guidero (“Applicant”), on behalf of Steve and Antoinette (“Owner”) Bast, with respect to property located at 1721 East Balboa Boulevard, requesting approval of a coastal development permit.
2. The lot at 1721 East Balboa Boulevard is legally described as Lot 23 of Tract No. 518, in City of Newport Beach, County of Orange, State of California, as per map recorded in Book 17, Pages 33-36 of Miscellaneous Maps, Records of Orange County, California. Tract 948.
3. The Applicant requests a coastal development permit to allow the construction of a new 3,634 square foot, 3-story single family home and attached 2-car garage. The project also includes landscaping, hardscape and drainage. The proposed residence complies with all applicable development standards including height, setbacks, and floor area limits. No deviations are requested. The property and the adjacent legal lot at 1717 East Balboa Boulevard were previously developed with a single family home built across both lots that has been demolished as permitted by the approval of CDP No. CD2017-072.
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-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.
6. A public hearing was held on April 26, 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 demolition of one single-family residence and the construction of a new 3,068-square-foot single-family residence and attached 566-square-foot 2-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 total proposed floor area, including the residence and enclosed parking, is 3,634 square feet, which complies with the maximum allowable floor area limit of 3,835 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 9 feet along the front property line abutting East Balboa Boulevard, 3 feet along each side property line and 0 feet along the rear property line abutting the alley.
 - c. The highest guardrail is less than 24 feet from established grade (9.107 feet North American Vertical Datum of 1988) and the highest ridge is 29 feet from established grade, which complies with the maximum height limitation.
 - d. The project includes garage parking for a total of two vehicles, complying with the minimum two-car garage parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two- and three-story, single-family residences. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.

3. The development is separated from the shoreline by East Balboa Boulevard and several rows of residences. The subject property is located approximately 300 feet from the bay and is not protected by a bulkhead.
4. The finished floor elevation of the proposed dwelling is 9.85 feet (NAVD88), which complies with the minimum 9 feet (NAVD88) elevation 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 the CBC prior to building permit issuance.
6. The property is not 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. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought tolerant and prohibits invasive species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
8. The property is not located near Public Viewpoints or Coastal View Roads, as designated in the Coastal Land Use Plan, and will not impact public coastal views. Due to the distance of the proposed development from the Public Viewpoints and the project's compliance with height and setbacks, views of the ocean, beach and harbor from other public spaces will not be impacted by the proposed development. There is no Coastal View Road (segment) on the Balboa Peninsula.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect public recreation, access, or views and will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. The residential lot does not currently provide nor inhibit public coastal access.

2. Vertical access points to the beach and harbor are located at street-ends throughout Balboa Peninsula. Vertical access to the beach is available south of the site along I Street. Lateral Access is available via the large public beach along East Ocean Front. Vertical access to the harbor is available to north from J Street.
3. The proposed project is located entirely on private property and there will be no reduction in on-street parking spaces.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-009, 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 26TH DAY OF APRIL, 2018.



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 (BMPs) and Good Housekeeping Practices (GHPs) shall be implemented prior to and throughout the duration of construction activity AS designated on the Erosion Control Plan.
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. 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.
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. 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.
12. 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.
13. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
14. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
15. Prior to the issuance of a building permit, the Applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
16. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
17. Coastal Development Permit No. CD2018-009 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.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Bast Residence CDP including, but not limited to, Coastal Development Permit No. CD2018-009 (PA2018-023). 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. ZA2018-053

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-003 TO ESTABLISH A 272-SQAURE-FOOT RETAIL STORE SPECIALIZING IN WINE SALES AND ACCESSORY ON-SITE TASTING AT 201 SHIPYARD WAY, SUITE 3 (PA2018-038).

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JR Walz of Walz Architecture, with respect to property located at 201 Shipyard Way, Suite 3; and legally described as Portions of Sections 28 and 33 of Record of Survey No. 11-34 requesting approval of a minor use permit.
2. The applicant proposes to improve 272 square feet of commercial office space to establish a retail store specializing in Howell Mountain Vineyard Wine (Alcohol Sales, Off-Sale). Also proposed is an accessory, on-site tasting area totaling 92 square feet with nine seats. Sale and on-site consumption of alcohol will be regulated by a Type 02 (Winegrowers) Alcoholic Beverage Control License. No late hours (after 11:00 p.m.) are proposed.
3. The subject property is designated Recreational and Marine Commercial (CM) by the General Plan Land Use Element and is located within the Lido Peninsula -Amendment 413 Planned Community (PC-6) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Recreational and Marine Commercial (CM-B) and it is located within the Lido Peninsula Planned Community – Amendment 413 Planned Community (PC-6) Coastal Zoning District.
5. The project does not meet the definition of “development” pursuant to NBMC Section 21.70.020 because the project would not result in any improvement to the structure that results in changes in floor area, parking demand, or change the general level of activity within the The Rhine. Therefore, the project is not subject to the permit requirements of the certified Local Coastal Program.
6. A public hearing was held on April 26, 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.

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA

Guidelines, California Code of Regulations, Title 14, Chapter 3, because this is the conversion of an existing office space to a similar use with no or minor modification to the exterior of the structure.

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

SECTION 3. REQUIRED FINDINGS.

Alcohol Sales (Off-Sale)

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding

In finding that the proposed use is consistent with Section 20.48.030 (Alcohol Sales) of the Zoning Code, the following criteria must be considered:

- i. The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
 1. The proposed retail store is located within Reporting District 15, wherein the number of crimes is higher than adjacent Reporting Districts and the City. RD 13, 16, and 25 have a lower number of crimes as they are primarily residential with fewer commercial uses. Due to the high concentration of commercial land uses, restaurants and bars in the popular tourist area between 37th Street and 20th Street on the Balboa Peninsula, the crime rate is greater than adjacent residential Reporting Districts. The retail store is separated from most of the commercial uses as it is located on the Lido Peninsula within The Rhine, which is a marine-related office node that includes a restaurant and offices. Newport Beach Police Department does not consider the number significant given the type of development within this Reporting District.
- ii. The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
 1. Due to the high concentration of commercial land uses, the calls for service and number of arrests are greater than adjacent residential Reporting Districts. The

Police Department does not consider the rate high because of the concentration of restaurants and commercial uses in this Reporting District on the Balboa Peninsula. The Lido Peninsula is significantly separated from the Balboa Peninsula by waterways, diminishing the impact of the concentration of alcohol uses. The Newport Beach Police Department has not previously reported any calls for service related to alcohol for the subject property.

- iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.*
1. Although the property is adjacent to a multi-family development, the suite itself is located in a building located approximately 50 feet away and separated by a parking lot. The suite is also oriented towards and accessed from the opposite side of the building towards the public walkway for The Rhine. The orientation provides screening and protection from view and potential noise disturbances.
 2. The proposed use is not located in close proximity to day care centers, park and recreation facilities, places of religious assembly, and schools.
- iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.*
1. There are three full-service restaurant establishments on the Lido Peninsula (Sabatino's, Buddha's Favorite, and the Blue Water Grille). Sabatino's is closest in proximity to the proposed retail store, with a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control License. Buddha's Favorite and Blue Water Grille are approximately 600 feet north of the proposed retail store with Type 47 (On-Sale General for Bona Fide Public Eating Place) Alcoholic Beverage Control Licenses. These establishments operate as full-service restaurants and are not comparable to the proposed retail store. Appropriate conditions of approval have been included to prevent the retail store from operating as an eating and drinking establishment, bar or lounge, etc.
 2. The Police Department has reviewed the subject application and does not foresee an issue with the proposed location.
- v. Whether or not the proposed amendment will resolve any current objectionable conditions*
1. This is a new retail store; therefore, no objectionable conditions exist.

Minor Use Permit

In accordance with Section 20.52.020.F (Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a use permit are set forth:

Finding

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

Facts in Support of Finding

1. The proposed project is a retail store specializing in wine (Alcohol Sales, Off-sale) and accessory wine tasting to be located within an existing, office building on the Lido Peninsula.
2. The General Plan land use designation for this site is CM (Recreational Marine Commercial), which is intended to provide for commercial development on or near the bay in a manner that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses.
3. The proposed retail store is consistent with the General Plan CM land use designation, as it will serve and support the marine and coastal uses providing a service to visitors and residents that frequent the area to enjoy the marine ambiance.
4. The proposed project will not interfere or otherwise impact existing coastal-dependent uses in the vicinity.
5. The subject property is not part of a specific plan area.

Finding

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

Facts in Support of Finding

1. The site is located within the PC-6 Zoning District. Pursuant to Director's Determination DD2017-003, the zone is intended to provide uses consistent with the CM General Plan land use designation and the existing uses within the neighborhood. The proposed retail store and on-site, accessory tasting area are consistent with the intended land uses of the CM General Plan land use designation as well as the existing uses in the surrounding neighborhood.

2. The proposed use complies with Zoning Code Section 20.48.030 (Alcohol Sales) relating to required operating standards, and conditions of approval are included in this approval to maintain those requirements.
4. The existing on-site shared parking lot provides 193 parking spaces for all of the uses. The Code-required parking ratio for the proposed retail store is one space per 250 square feet of gross floor building area. This is the same parking ratio required of the previous office use that occupied the suite; therefore, there is no intensification of use and no additional parking is required.

Finding

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

Facts in Support of Finding

1. The proposed project involves interior alterations to improve an existing office space to a retail store with an on-site, accessory tasting area. The operational characteristics of the use are that of a retail store, which is compatible with the uses on the Lido Peninsula which currently include retail, general offices for various businesses such as an architect and appraiser, restaurants, barber and art studio.
2. The retail store and related accessory tasting have been limited by the conditions of approval to prevent late hour operations and are restricted to the hours of between 7 a.m. and 10 p.m., daily.
3. The proposed establishment will be located within an existing office building. Although, the subject property is technically adjacent to a multi-unit residential property, the subject suite is located on the opposite side of the residential uses and faces the interior public walkway for The Rhine. Additionally, there is a parking lot between the existing office building and the residential units. This orientation provides screening and protection from view and potential noise generated by the establishment. The applicant is also required to control trash and litter around the subject property.
4. The applicant is required to obtain Health Department approval prior to opening for business, and comply with the California Building Code to ensure the safety and welfare of customers and employees within the establishment.

Finding

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

Facts in Support of Finding

1. The building has existed since the 1970s. The improvement of an existing office space for retail use will not negatively affect emergency access.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on-site and are accessed by way of the alley directly behind the site.
3. The tenant improvements to the project site will comply with all Building, Public Works, and Fire Codes. All ordinances of the City and all conditions of approval will be complied with.

Finding

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

Facts in Support of Finding

1. The project has been reviewed and this approval includes conditions to ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks, and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the retail store.
2. The restrictions on the hours and wine tasting operation will help prevent adverse pedestrian and traffic impacts for the surrounding residential and commercial uses.
3. The proposed retail store and on-site, accessory tasting area will help revitalize the project site and provide an economic opportunity for the property owner to update the tenant space and provide additional services to the visitors and residents in the surrounding area.
4. All owners, managers, and employees selling or serving wine will be required to complete a Responsible Beverage Service certification program.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2018-003, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.

2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 26th DAY OF APRIL, 2018.



Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan and floor plan(s) dated with this date of approval. (Except as modified by applicable conditions of approval.)
2. This minor use permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
3. Any change in operational characteristics, hours of operation, expansion in area, or other modification to the approved plans, may require an amendment to this minor use permit or the processing of a new use permit.
4. Minor Use Permit No. UP2018-003 shall expire unless exercised within 24 months from the date of approval as specified in Section 20.54.060 (Time Limits and Extensions) of the Newport Beach Zoning Code, unless an extension is otherwise granted.
5. Should this business be sold or otherwise come under different ownership, any future owners or assignees shall be notified in writing of the conditions of this approval by the current owner or leasing company.
6. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
8. This approval does not permit the premises to operate as a bar, tavern, cocktail lounge, nightclub, or eating and drinking establishment as defined by the Newport Beach Municipal Code.
9. There shall be no dancing and/or live entertainment allowed on the premises.
10. A copy of this resolution shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.

11. The Alcoholic Beverage Control (ABC) License shall be limited to a Type 02 (Winegrower), or comparable license. Any substantial change in the ABC License type shall require subsequent review and potential amendment to this minor use permit.
12. The tasting area shall be limited to 92 square feet and nine seats within the designated area. No tastings shall be conducted outside of the designated area. Tastings are limited to those allowed under a Type 02 (Winegrower) Alcoholic Beverage Control License only. Pours shall be limited to two ounces each.
13. The hours of operation for the retail store and related, accessory wine tasting are limited from 7 a.m. to 10 p.m., daily.
14. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
15. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
16. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10 p.m. and 8 a.m., daily, unless otherwise approved by the Community Development Director, and may require an amendment to this Use Permit.
17. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Howell Mountain Vineyard Company, LLC Minor Use Permit including, but not limited to, Minor Use Permit No. UP2018-003 (PA2018-038). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Building Division Conditions

19. Approval from the Orange County Health Department is required prior to the issuance of a building permit.

20. The retail store must provide plumbing fixtures per section 422.0 California Plumbing Code (CPC) for a maximum travel distance of 300 feet to centrally located toilet facilities accessible to several stores.
21. The building permit plans shall provide energy documentation for lighting and must demonstrate compliance with section 11B-202.4 California Building Code.

Police Department Conditions

22. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the use permit.
23. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the license.
24. No games or contests requiring or involving the consumption of alcoholic beverages shall be permitted.
25. There shall be no reduced price alcoholic beverage promotions after 9:00 p.m.
26. The petitioner shall not share any profits or pay any percentage or commission to a promoter or any other person based upon monies collected as a door charge, cover charge, or any other form of admission charge, including minimum drink orders or the sale of drinks.
27. All owners, managers, and employees selling wine shall undergo and successfully complete a certified training program in responsible methods and skills for selling beer and wine. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The retail store shall comply with the requirements of this section within 180 days of the issuance of the certificate of occupancy. Records of each owner's, manager's and employee's successful completion of the required certified training program shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.
28. Strict adherence to maximum occupancy limit is required.
29. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
30. The operator of the facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.

31. A Special Event Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

RESOLUTION NO. ZA2018-054

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-004 ADDING A TYPE 41 ALCOHOLIC BEVERAGE CONTROL LICENSE TO A RESTAURANT WITH NO LATE HOURS LOCATED AT 1126 IRVINE AVENUE (PA2018-045)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Tiffany Sepetijan, with respect to property located at 1126 Irvine Avenue, and legally described as Tract 4824, Lot 3, requesting approval of a minor use permit.
2. The applicant proposes a minor use permit amendment to add a Type 41 (On Sale Beer and Wine) Alcoholic Beverage Control license to an existing food service, eating and drinking establishment. Existing and proposed net public area is 804 square feet with seating for up to 30 customers. The hours of operation are 7 a.m. to 11 p.m., daily. There are no late hours (after 11 p.m.) proposed.
3. The subject property is located within the Commercial Neighborhood (CN) Zoning District and the General Plan Land Use Element category is Commercial Neighborhood (CN).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on April 26, 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 exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301 under Class 1 (Existing Facilities) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. The Class 1 exemption includes the ongoing use of existing buildings where there is negligible or no expansion of use. The proposed project involves the addition of the Type 41 ABC License to an existing eating and drinking establishment with no other expansion beyond what has been previously permitted and no proposed interior or exterior changes.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.48.030 (Alcohol Sales) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The use is consistent with the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code.*

Facts in Support of Finding:

In finding that the proposed use is consistent with Section 20.48.030 of the Zoning Code, the following criteria must be considered:

- i. *The crime rate in the reporting district and adjacent reporting districts as compared to other areas in the City.*
1. The establishment is located within Reporting District (RD) 28. The Part One Crimes (Part One Crimes are the eight most serious crimes defined by the FBI Uniform Crime Report – homicide, rape, robbery, aggravated assault, burglary, larceny-theft, auto theft, and arson) Rate in RD 28 is higher than the Part One Crimes Rate for the City and adjacent districts. The crime rate in this district is 117 percent above the Citywide reporting district average. However, the proposed project is not located in an area that has a high concentration of alcohol licenses. The Police Department has reviewed the application and does not object to the addition of beer and wine sales subject to the conditions of approval in Exhibit A. Therefore appropriate to allow the establishment to operate with alcohol and no late hours.
 2. The Police Department has reviewed the proposed use, provided operating conditions of approval, and has no objection to the addition of the Type 41 alcoholic beverage license subject to appropriate conditions of approval. The operation of the establishment includes a closing hour of 11 p.m.
- ii. *The number of alcohol-related calls for service, crimes, or arrests in the reporting district and in adjacent reporting districts.*
1. This reporting district is reported to ABC as a high crime area as compared to other reporting districts in the City. The crime count ranks 4th highest in the City at 117% over the City-wide crime average. The highest volume crime is Burglary or Theft from an automobile and the highest volume arrests are drug-related offenses. DUI, Public Intoxication, and liquor law violations make up 9% of arrests in this reporting district. In comparison, neighboring RD 25 figure is 29%, RD 26 is 22%, and RD 29 is 14%. The applicant location was the subject of two dispatch events in 2017. Neither event was related to the business operations. The Police Department has reviewed the application and does not object to the addition of beer and wine sales subject to the conditions of approval in Exhibit A.

iii. The proximity of the establishment to residential zoning districts, day care centers, hospitals, park and recreation facilities, places of worship, schools, other similar uses, and any uses that attract minors.

1. The project site is located within the Westcliff Plaza shopping center in a commercial zoning district. The shopping center is surrounded by residential uses to the north, east, and west. The shopping center is oriented such that the back entrances of tenant spaces are closest to the residential uses to the north and east. Primary customer activity, including entrances, primary parking, and outdoor seating areas that serve all tenants. Residential uses to west are separated by Irvine Avenue. Mariners Elementary School, Mariners Branch Public Library, and Mariners Park are located approximately 580 feet to the north on Irvine Avenue. The closest place of worship is The Church of Jesus Christ of Latter-day Saints, located on Dover Drive approximately 1,600 feet to the southeast. There are no other day care centers, hospitals or similar uses in the immediate vicinity.
2. Eating and drinking establishments with incidental alcohol service are common in the Commercial Neighborhood Zoning District and the proposed ABC license in conjunction with an 11 p.m. closing hour is not anticipated to alter the operational characteristics of the use such that it becomes detrimental to the area.

iv. The proximity to other establishments selling alcoholic beverages for either off-site or on-site consumption.

1. The closest establishment selling alcoholic beverages for on-site consumption is The Counter, a full service restaurant in Westcliff Plaza approximately 80 feet away from Pandor Bakery. The closest establishment selling alcoholic beverages for off-site consumption is Ralph's, a grocery store also located Westcliff Plaza.
2. There is no evidence suggesting a food service, eating and drinking establishment with alcohol service has been or will be detrimental to surrounding properties or to the neighborhood. The project site is located in census tract 0630.1, which has one on-sale ABC license for every 783 residents. This is less than the Orange County average of one license per 467 residents and the Citywide average of one license for every 189 residents.

v. Whether or not the proposed amendment will resolve any current objectionable conditions.

1. An eating and drinking establishment has operated at the subject property since 2012 with no operating issues. No objectionable conditions are presently occurring at the site and this Minor Use Permit as conditioned is intended to avoid future objectionable conditions.
2. The proposed use has been reviewed and conditioned to help ensure that the purpose and intent of Section 20.48.030 (Alcohol Sales) of the Zoning Code is maintained and that a healthy environment for businesses is preserved. The service of alcohol is

intended for the convenience of customers dining at the establishment. Operational conditions of approval recommended by the Police Department relative to the sale of alcoholic beverages will ensure compatibility with the surrounding uses and minimize alcohol related impacts.

3. The hours of operation of the establishment will minimize the potential effects on land use. The establishment closes by 11 p.m. daily, which will ensure the use does not become a late night bar, tavern, or nightclub.

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

Finding:

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

Facts in Support of Finding:

1. The site is designated Neighborhood Commercial by the General Plan Land Use Element, which is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area. The proposed project is a food service, eating and drinking establishment with alcohol service located within the Westcliff Plaza shopping. This use is consistent with the General Plan Neighborhood Commercial land use designation, which allows food service, eating and drinking establishments as a commercial use.
2. The restaurant is located near the northeast corner of Westcliff Drive and Irvine Avenue in the Westcliff Plaza shopping center, which provides a variety of commercial and service uses. The sale and service of alcohol will provide a convenience for patrons nearby residents, consistent with the CN land use designation. The closing hour of 11 p.m. will help to ensure the use remains compatible with the nearby residential uses.
3. The subject property is not a part of a specific plan area.

Finding:

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

Facts in Support of Finding:

1. The site is located within Commercial Neighborhood (CN) Zoning District. Food service, eating and drinking establishments with alcohol service and no late hours (after 11 p.m.) are a permitted use in this zoning district subject to approval of a minor use permit.

2. The use complies with Section 20.48.090 (Eating and Drinking Establishments) relating to required operating standards, and conditions of approval are included in this approval to maintain those requirements.
3. The use will remain a food service, eating and drinking establishment and the addition of the Type 41 Alcoholic Beverage Control License will not alter or intensify the existing use. Further, there will be no change to the net public area or seating and there are no late hours proposed.

Finding:

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

Facts in Support of Finding:

1. The addition of the alcohol license does not change the operating characteristics of the previously approved eating and drinking establishment, which has been operating since 2012 without issue.
2. The operational characteristics of the use are typical of a food service, eating and drinking establishment, and are compatible with uses within and surrounding the shopping center. A food service, eating and drinking establishment with alcohol service, The Counter, has been operating in the same center without substantial issue since 2010.
3. The hours of operation are limited to 7 a.m. to 11 p.m., daily, which will ensure compatibility with the nearby residential uses. Additionally, the customer entrance to the tenant space is oriented toward the large parking lot and is separated from the residential uses by the building. There is no proposed expansion to the existing common outdoor patio area utilized by all tenants of the shopping center.

Finding:

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

Facts in Support of Finding:

1. The previous restaurant has proven to be physically suitable in terms of design, location, shape, and size to support the use. The physical characteristics of the site are not changing with the new tenant and addition of the alcohol license.
2. Adequate public and emergency vehicle access, public services, and utilities are provided for on-site.

Finding:

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

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval to help ensure that potential conflicts with the surrounding land uses are minimized to the greatest extent possible. The operator is required to take reasonable steps to discourage and correct objectionable conditions that constitute a nuisance in parking areas, sidewalks and areas surrounding the subject property and adjacent properties during business hours, if directly related to the patrons of the establishment.
2. The food service, eating and drinking establishment will continue to service the surroundings by providing dining services as a public convenience to the surrounding businesses, residents, and visitors to the area. The service of alcohol will complement the principal use of the facility and provide an economic opportunity for the property owner to maintain a successful business.
3. As conditioned, the owners, managers and employees selling alcohol are required to undergo and successfully complete a certified training program in responsible methods and skills for selling alcohol.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2018-004, 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 20 Planning and Zoning, of the Newport Beach Municipal Code.
3. This resolution supersedes Minor Use Permit No. UP2011-031, which upon vesting of the rights authorized by this Minor Use Permit, shall become null and void.

PASSED, APPROVED, AND ADOPTED THIS 26TH DAY OF APRIL, 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT “A”

CONDITIONS OF APPROVAL

Planning Division

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
4. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
5. All lighting shall conform with the standards of Section 20.30.070 (Outdoor Lighting). The Community Development Director may order the dimming of light sources or other remediation upon finding that the site is excessively illuminated.
6. The operator of the facility shall be responsible for the control of noise generated by the subject facility including, but not limited to, noise generated by patrons, food service operations, and mechanical equipment. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code. Pre-recorded music may be played in the tenant space, provided exterior noise levels outlined below are not exceeded. The noise generated by the proposed use shall comply with the provisions of Chapter 10.26 of the Newport Beach Municipal Code. The maximum noise shall be limited to no more than depicted below for the specified time period unless the ambient noise level is higher:

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

7. All proposed signs shall conform to Title 20, Chapter 20.42 (Sign Standards) of the Newport Beach Municipal Code regulations or any sign program applicable to the property.
8. No temporary “sandwich” signs or similar temporary signs shall be permitted, either on-site or off-site, to advertise the restaurant.
9. The allowed hours of operation shall be between 7 a.m. and 11 p.m., daily.
10. Net public area shall be limited to a maximum of 804 square feet and 30 seats.
11. The food service, eating and drinking establishment shall have a parking requirement of 1 space for every 40 square feet of net public area equaling a total of 21 parking spaces.
12. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require a separate review and may necessitate an amendment to this Minor Use Permit or the processing of a new use permit.
13. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
14. No outside paging system shall be utilized in conjunction with this establishment.
15. All trash shall be stored within the building or within dumpsters stored in the trash enclosure (three walls and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.
16. Trash receptacles for patrons shall be conveniently located both inside and outside of the establishment, however, not located on or within any public property or right-of-way.
17. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
18. The applicant shall ensure that the trash dumpsters and/or receptacles are maintained to control odors. This may include the provision of either fully self-contained dumpsters or periodic steam cleaning of the dumpsters, if deemed necessary by the Planning Division. Cleaning and maintenance of trash dumpsters shall be done in compliance with the provisions of Title 14, including all future amendments (including Water Quality related requirements).
19. Storage outside of the building in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
20. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large

crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.

21. This approval shall expire and become void unless exercised within 24 months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
22. 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 Pandor Minor Use Permit Amendment including, but not limited to, Minor Use Permit No. UP2018-004 (PA2018-045). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

Police Department

23. The hours of operation shall be limited to 7 a.m. to 11 p.m., daily. The establishment shall not permit any new customers after 11 p.m.
24. Food service from the regular menu shall be made available to patrons until closing.
25. The approval is for an eating and drinking establishment with on-sale alcoholic beverage service. The type of alcoholic beverage license issued by the California Board of Alcoholic Beverage Control shall be a Type 41 (On Sale Beer and Wine) license, in conjunction with the restaurant as the principal use of the facility.
26. The applicant shall comply with all federal, state, and local laws, and all conditions of the Alcoholic Beverage License. Material violation of any of those laws or conditions in connection with the use may be cause for revocation of the use permit.
27. Approval does not permit the premises to operate as a bar, tavern, cocktail lounge or nightclub as defined by the Newport Beach Municipal Code.
28. No alcoholic beverages shall be consumed on any property adjacent to the licensed premises under the control of the licensee.

29. No games or contests requiring or involving the consumption of alcoholic beverages shall be allowed.
30. There shall be no reduced price alcoholic beverage promotions after 9 p.m.
31. The quarterly gross sales of alcoholic beverages shall not exceed the gross sales of food during the same period. The licensee shall at all times maintain records, which reflect separately the gross sales of food and the gross sales of alcoholic beverages of the licensed business. These records shall be kept no less frequently than on a quarterly basis and shall be made available to the Police Department on demand.
32. There shall be no exterior advertising or signs of any kind or type, including advertising directed to the exterior from within, promoting or indicating the availability of alcoholic beverages. Interior displays of alcoholic beverages or signs which are clearly visible to the exterior shall constitute a violation of this condition.
33. There shall be no live entertainment or dancing allowed on the premises.
34. The removal or relocation of tables, chairs, stools, or other furniture to accommodate an area for standing or dancing shall be prohibited.
35. "VIP" passes or other passes to enter the establishment, as well as door charges, cover charges, or any other form of admission charge, including minimum drink order of the sale of drinks is prohibited (excluding charges for prix fixe meals).
36. Any event or activity staged by an outside promoter or entity, where the applicant, operator, owner or his employees or representatives share in any profits, or pay any percentage or commission to a promoter or any other person is prohibited.
37. There shall be no on-site radio, television, video, film, or other electronic media broadcasts, including recordings to be broadcasted at a later time, which include the service of alcoholic beverages, without first obtaining an approved Special Event Permit issued by the City of Newport Beach.
38. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter, and debris from the premises and on all abutting sidewalks within 20 feet of the premises. Graffiti shall be removed within 48 hours of written notice from the City.
39. All owners, managers and employees selling alcoholic beverages shall undergo and successfully complete a certified training program in responsible methods and skills for selling alcoholic beverages within 60 days of hire. This training must be updated every 3 years regardless of certificate expiration date. The certified program must meet the standards of the California Coordinating Council on Responsible Beverage Service or other certifying/licensing body, which the State may designate. The establishment shall comply with the requirements of this section within 60 days of approval. Records of each owner's, manager's and employee's successful completion of the required certified training program

shall be maintained on the premises and shall be presented upon request by a representative of the City of Newport Beach.

40. Strict adherence to maximum occupancy limits is required.
41. The applicant shall maintain a security recording system with a 30-day retention and make those recording available to police upon request.
42. The operator of the restaurant facility shall be responsible for the control of noise generated by the subject facility. All noise generated by the proposed use shall comply with the provisions of Chapter 10.26 and other applicable noise control requirements of the Newport Beach Municipal Code.