



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjjs, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator, Hearing Officer, and/or Planning Division staff for the week ending June 29, 2018.

ZONING ADMINISTRATOR ACTIONS JUNE 28, 2018

- Item 1: Acai Republic Minor Use Permit No. UP2018-006 (PA2018-112)
Site Address: 948 Avocado Avenue
Action: Approved by Resolution No. ZA2018-077 Council District 5
- Item 2: Tajima Residence Lot Line Adjustment No. LA2018-002 (PA2018-044)
Site Address: 2401 Vista Hojar
Action: Approved by Resolution No. ZA2018-078 Council District 4
- Item 3: Ashby Residence Coastal Development Permit No. CD2018-032 (PA2018-073)
Site Address: 1392 Galaxy Drive
Action: Approved by Resolution No. ZA2018-079 Council District 3
- Item 4: Johnson Residence Coastal Development Permit No. CD2018-010 (PA2018-020)
Site Address: 102 E Oceanfront
Action: Approved by Resolution No. ZA2018-080 Council District 1
- Item 5: Coronado Residence Coastal Development Permit No. CD2018-052 (PA2018-119)
Site Address: 309 Coronado Street
Action: Approved by Resolution No. ZA2018-081 Council District 1
- Item 6: Patterson Residence Coastal Development Permit No. CD2018-029 (PA2018-068)
Site Address: 304 36th Street
Action: Approved by Resolution No. ZA2018-082 Council District 3

**HEARING OFFICER ACTIONS
JUNE 26, 2018**

Item 1: Landon Elevator Addition Reasonable Accomodation RA2018-001
Site Address: 205 North Bay Front

Action: Approved by Resolution No. HO2018-001 Council District 5

APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

RESOLUTION NO. ZA2018-077

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-006 FOR A TAKE-OUT SERVICE, LIMITED, EATING AND DRINKING ESTABLISHMENT LOCATED AT 948 AVOCADO AVENUE (PA2018-112)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by JP&AP Enterprises with respect to property located at 948 Avocado Avenue, and legally described as Parcel 1 of Resubdivison 973.
2. The applicant requests a minor use permit to allow a juice bar (take-out service, limited), within an existing 773-square-foot retail tenant space and a maximum of 6 seats. The proposed hours of operation are from 8:00 a.m. to 10:00 p.m., daily. No late hours (after 11:00 p.m.) or alcohol service are proposed as part of this application.
3. The subject property is located within the Newport Village Planned Community (PC27) and the General Plan Land Use Element category is General Commercial (CG).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 28, 2018 in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project 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. This exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves alterations to the interior floor plan of an existing commercial space with no expansion in floor area.

SECTION 3. REQUIRED FINDINGS.

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:

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

Facts in Support of Finding:

1. The General Plan designates the site as General Commercial (CG) which is intended to provide for a wide variety of commercial activities oriented primarily to serve citywide or regional needs.
2. The proposed establishment is a commercial use intended to serve nearby residents, the surrounding community, and visitors to the City of Newport Beach. Therefore, the use is consistent with this land use category.
3. The proposed take-out service, limited, establishment would be complementary to the surrounding commercial and residential uses.
4. 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 property is in Area 5 (Retail) of PC27. This designation is intended to be developed as a specialty retail commercial center and permits a broad range of commercial uses including retail uses, restaurants, and uses which are service in nature. Specialty food uses (take-out service, limited), are listed as a permitted use; however, pursuant to Table 2-5 of Newport Beach Municipal Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) subject to the approval of a minor use permit is required due to its location within 500 feet of a residential zoning district.
2. The project site includes a 515-space surface parking lot. PC27 requires a minimum of 4.9 off-street parking spaces for every 1,000 square feet of gross floor area for Area 5 (Corona Del Mar Plaza) for all uses, including the proposed juice bar. No intensification or enlargement is proposed; therefore, no additional parking is required.

3. As conditioned, the proposed establishment will comply with Zoning Code standards for eating and drinking establishments, including those specific to the take-out service, limited use classification, which includes a maximum of six seats.

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 establishment within the commercial plaza will be accessible from Avocado Avenue and Macarthur Boulevard, which provide convenient access for motorists, pedestrians, and bicyclists.
2. The proposed establishment is compatible with the existing and allowed uses in the area, which consist of retail commercial and residential developments.
3. A commercial development is located to the east of the property. As conditioned, the allowed hours of operation will be 8:00 a.m. to 10:00 p.m., daily, which will minimize any disturbance to residences near the property.
4. The proposed juice bar will share an existing trash enclosure directly behind the building that is surrounded by three walls and a self-latching gate. It is conveniently located where materials can be deposited and collected, and does not impede with parking spaces.

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 existing 515-space parking lot provides adequate circulation for patrons.
2. The Fire Department reviewed the project and site to ensure adequate public and emergency vehicle access is provided.
3. Any proposed site and tenant improvements must comply with the Zoning Code and all Building, Public Works, and Fire Codes for permits to be issued.

Finding:

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

Facts in Support of Finding:

1. The project has been reviewed and includes conditions of approval 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 establishment.
2. The proposed take-out service, limited, eating and drinking establishment will add additional take-out options to the project site and provide an economic opportunity for the property owner to update the tenant space and provide additional services to residents and visitors.
3. 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.
4. The proposed use includes limited hours, no alcohol service is proposed, and there is no increased parking demand. Based upon the Zoning Code requirements, the proposed use will not result in a detriment to the existing retail shopping center or surrounding community.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2018-006 (PA2018-112), 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 28TH DAY OF JUNE, 2017.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan and floor plans stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval.)
2. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
3. 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.
4. 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.
5. The hours of operation for the establishment shall be limited to 8:00 a.m. through 10:00 p.m., daily.
6. The sale of alcohol shall not be permitted.
7. The maximum number of seats allowed in the eating and drinking establishment shall be six (6). No outdoor seating is permitted without further review and may require an amendment to this Minor Use Permit.
8. Any change in operational characteristics, expansion in area, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new use permit.
9. A copy of the Resolution, including conditions of approval Exhibit "A", shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
10. 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 Minor Use 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 Minor Use Permit and shall highlight the approved elements such that they are readily discernible from other elements of the plans.

11. Prior to issuance of building permits, the project plans shall identify if the building is protected with automatic fire sprinklers and/or a fire alarm system to the satisfaction of the City's Life Safety Services Division.
12. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
13. All trash shall be stored within the building or within dumpsters stored in the trash enclosure or otherwise screened from view of neighboring properties. Trash bins shall have a lid which shall remain closed at all times, except when being loaded or while being collected by the refuse collection agency. Additionally, the operator must monitor all trash receptacles, having them emptied, maintained, and cleaned when necessary as to control odors and any nuisances.
14. 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.
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. 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).
17. Deliveries and refuse collection for the facility shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m., on weekdays and Saturdays, and between the hours of 10:00 p.m. and 9:00 a.m. on Sundays and Federal holidays, unless otherwise approved by the Director of Community Development, and may require an amendment to this Minor Use Permit.
18. Storage outside of the building, in the front, or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
19. 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 permit.

20. 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.

21. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Acai Republic Minor Use Permit including, but not limited to, Minor Use Permit No. UP2018-006 (PA2018-112). 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. ZA2018-078

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2018-002 FOR A LOT LINE ADJUSTMENT LOCATED AT 2401 VISTA HOGAR (PA2018-044)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Machiko Tajima, with respect to property located at 2401 Vista Hogar, and legally described as Lot 87 and Lot 105 of Tract No. 5798 requesting approval of a lot line adjustment.
2. A lot line adjustment to add 271 square feet of homeowner's association property (Lot 105) to a private residential property at 2401 Vista Hogar (Lot 87). The subject area is located at the entrance to the dwelling unit and is generally bounded by 2401 Vista Hogar, 2405 Vista Hogar, and the street. There will be no change in the number of lots.
3. The subject property at 2401 Vista Hogar is designated RS-A (Single-Unit Residential Attached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District. The adjacent homeowners' association property, Lot 105, is designated OS (Open Space) by the General Plan Land Use Element and is located within the OS (Open Space) Zoning District.
4. The subject property is not located within the coastal zone.
5. A public hearing was held on June 28, 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 15305 under Class 5 (Minor Alterations in Land Use Limitations) 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. This exemption consists of minor alterations in land use limitations in areas with an average slope of less than 20 percent, which do not result in any changes in land use or density, including but not limited to minor lot line adjustments not resulting in the creation of any new parcel. The proposed lot line adjustment affects the shared property line between two parcels and is for the purpose of creating a larger lot at 2401 Vista

Hogar to match the existing lot lines of similar parcels within the Eastbluff Community. There will be no change in land use, density, or intensity.

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 19.76.020 (Procedures for Lot Line Adjustments) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The property at 2401 Vista Hogar is currently developed with a single-family residence. The adjacent homeowner's association property serves as common area between the dwelling units and includes a greenbelt and community pool. The proposed lot line adjustment will not change the existing General Plan land use and zoning district of any of the two parcels.
2. The proposed lot line adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. The Eastbluff Community is developed with attached homes in clusters of two to four units. The common homeowner's association lot provides for building separation between these clusters. The 2401 Vista Hogar property will continue to allow for single-unit development consistent with the applicable General Plan Land Use and Zoning designation. The lots will maintain their current Zoning and General Plan designation and the uses will continue to be consistent with these designations.
3. Future development at both lots will continue to be required to comply with all applicable development standards specified by the R-1 (Single-Unit Residential) and Open Space (OS) Zoning districts, respectively. As conditioned, a General Plan and Zoning Code amendment are required to update the land use designation and zoning district to allow an addition to the existing residence within the expanded lot area at

2401 Vista Hogar. Accessory structures are permissible on the expanded parcel under the existing land use designations and zoning districts.

4. The proposed lot line adjustment is consistent with the purpose identified in Chapter 19.76 (Lot Line Adjustment) of the Newport Beach Municipal Code. The lot line adjustment constitutes a minor boundary adjustment involving two (2) adjacent lots where land taken from one lot and is added to an adjacent lot. The original number of lots will remain unchanged after the adjustment.
5. The lot line adjustment is consistent with the General Plan, and does not negatively impact surrounding land owners, as the adjustment affects interior property lines between two (2) adjacent parcels. The existing land uses will remain and have not proven to be detrimental to the health, safety, peace, comfort, and general welfare of persons residing or working in the neighborhood.

Finding:

- B. The number of parcels resulting from the lot line adjustment remains the same as before the adjustment.*

Fact in Support of Finding:

1. The proposed lot line adjustment will adjust the property line between two (2) contiguous parcels. The number of parcels remains the same as before the lot line adjustment.

Finding:

- C. The lot line adjustment is consistent with applicable zoning regulations except that nothing herein shall prohibit the approval of a lot line adjustment as long as none of the resultant parcels is more nonconforming as to lot width, depth and area than the parcels that existed prior to the lot line adjustment.*

Facts in Support of Finding:

1. The 2401 Vista Hogar property (Lot 87) is located within the R-1 (Single Unit Residential) Zoning District, which is intended to permit attached single-unit dwellings. The homeowners' association property (Lot 105) is located within the OS (Open Space) Zoning District, which is intended to maintain and protect open space areas. The proposed lot line adjustment will not change the existing use of the parcels affected. Future development at both lots will continue to be required to comply with all applicable development standards specified by the R-1 (Single-Unit Residential) and Open Space (OS) Zoning districts, respectively
2. The proposed boundary adjustment will change the internal property lines between the subject properties, reallocating 271 square feet of land from Lot 105 to 2401 Vista Hogar (Lot 87). The purpose of the lot line adjustment is to create a larger lot at 2401 Vista Hogar to match the existing lot lines of similar parcels within the Eastbluff Community.

3. The subject properties are located within the Eastbluff community, which was developed as a Planned Residential Development in 1965. The proposed 2401 Vista Hogar parcel will continue maintain the minimum site area requirement of the original Planned Residential Development, with a proposed lot area of 1,854 square feet. There are no minimum lot area requirements for properties within the Open Space Zoning District.

Finding:

- D. Neither the lots as adjusted nor adjoining parcels will be deprived legal access as a result of the lot line adjustment.*

Fact in Support of Finding:

1. The proposed lot line adjustment affects the interior property lines between two (2) adjacent parcels. Legal access to the two properties will be maintained along Vista Hogar, thus access to the subject properties will not be affected by the adjustment.

Finding:

- E. That the final configuration of the parcels involved will not result in the loss of direct vehicular access from an adjacent alley for any of the parcels that are included in the lot line adjustment.*

Fact in Support of Finding:

1. Vehicular access to 2401 Vista Hogar is from Vista Hogar, and the final configuration will not change. Vehicular access to the homeowners' association property, Lot 105, is from Vista Hogar, Vista Huerta, and Hilvanar and the final configuration will not change.

Finding:

- F. That the final configuration of a reoriented lot does not result in any reduction of the street site setbacks as currently exist adjacent to a front yard of any adjacent key, unless such reduction is accomplished through a zone change to establish appropriate street site setbacks for the reoriented lot. The Planning Commission and City Council in approving the zone change application shall determine that the street site setbacks are appropriate, and are consistent and compatible with the surrounding pattern of development and existing adjacent setbacks.*

Fact in Support of Finding:

1. The final configuration of the proposed parcels does not result in a requirement for revised setbacks since the parcels are not proposed to be reoriented. The required setbacks applicable to parcels in the R-1 Zoning District shall continue to apply to the adjusted parcels per the Planned Community Development.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2018-044, subject to the conditions set forth in Exhibit A, which is attached hereto and incorporated by reference.
2. This action shall become final and effective 10 days after the adoption of this Resolution unless within such time an appeal or call for review is filed with the Director of Community Development in accordance with the provisions of Title 19 Subdivisions, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 28TH DAY OF JUNE, 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

(Project-specific conditions are in italics)

1. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
2. Prior to the recordation of the lot line adjustment, the applicant shall submit the exhibits to the Public Works Department for final review. *The exhibits shall be updated to include the existing and new legal descriptions for Lot 105.*
3. *Future development at both lots shall comply with all applicable development standards specified by the R-1 (Single-Unit Residential) and Open Space (OS) Zoning district respectively. A General Plan and Zoning Code amendment to update the land use designation and zoning district shall be required to allow an addition to the existing residence within the expanded lot area at 2401 Vista Hogar. Accessory structures are permissible on the expanded parcel under the existing land use designations and zoning districts.*
4. 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.
5. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the **Tajima Lot Line Adjustment** including, but not limited to, **Lot Line Adjustment No. LA2018-002 (PA2018-044)**. 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. ZA2018-079

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-032 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 3-CAR GARAGE LOCATED AT 1392 GALAXY DRIVE (PA2018-073)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bill Caskey + Associates Inc., with respect to property located at 1392 Galaxy Drive, requesting approval of a coastal development permit.
2. The lot at 1392 Galaxy Drive is legally described as Lot 80 of Tract 4224.
3. The applicant proposes the demolition of an existing single-family dwelling and the construction of a new, 5,921-square-foot, one-story single-family residence and an attached 762-square-foot 3-car garage. The project includes hardscape, drainage, and landscaping improvements.
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-1-6000 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-A (Single-Unit Residential Detached) and it is located within the R-1-6000 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on June 28, 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 5,921-square-foot, single-family residence and an attached 762-square-foot, 3-car garage.

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 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, site coverage, setbacks, height, parking, and Bluff Overlay standards.
 - a. Site coverage is limited to 60-percent (9,994 square feet) of the 16,567-square-foot lot area. The proposed site coverage area is approximately 55 percent (9,162 square feet).
 - b. The proposed development provides the minimum required setbacks, which are 20 feet along the front bluff-side property line, 6 feet along each side property line and 6 feet along the rear property line of Galaxy Drive.
 - c. The highest flat roof is approximately 14.59 feet from established grade (106.96 feet NAVD88), significantly less than the 24-foot maximum height limit requirement.
 - d. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
 - e. Pursuant to the Bluff Overlay Map B-9D (Upper Newport Bay Bluffs), the property is located on a bluff subject to marine erosion. Consistent with the Bluff Overlay standards, the proposed principal dwelling and major accessory structures (including swimming pool) are located within Development Area A and setback a minimum of 25 feet from the bluff edge. Minor accessory structures are located within Development B, a minimum of 10 feet back from bluff edge. No accessory structures are proposed within Development Area C

2. The neighborhood is predominantly developed with one- and two-story, single-family residences. Along the bluff side of Galaxy Drive, development consists primarily of single-story, single-family dwellings. The proposed single-story design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The property is located on a relatively level building pad approximately 105 feet above mean sea level adjacent to a bluff that descends approximately 95 feet to the Upper Newport Bay. A Geotechnical Investigation, dated March 23, 2018, was prepared by GMU Geotechnical, Inc., for the project and found that the proposed grading and construction will not adversely affect geologic stability of the existing bluff or adjoining properties or structures, provided construction is performed in accordance with report recommendations. In addition, the report found that the geologic conditions of the site are favorable with respect to gross stability of the bluff that descends from the subject property to the bay. The site is not susceptible to earthquake-induced liquefaction or landsliding. Lastly, the potential for any erosion or slumping is considered very low due to moderate to thick protective vegetation on the bluff and any surficial slumps that do occur are expected to be very localized and shallow in nature and not expected to adversely affect the proposed development. To maintain the surficial stability of the adjacent descending slope, it is recommended that all drainage from the building pad and bluff side yard area be directed to the adjacent street and not to the face of slope.
4. 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. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
7. Pursuant to Municipal Code Section 21.35.050, due to the proximity of the development to the shoreline and the development containing more than 75 percent of impervious surface area, a Water Quality and Hydrology Plan (WQHP) is required. A WQMP prepared by Toal Engineering, Inc., dated March 25, 2018, has been reviewed and

approved by the City's Engineer Geologist. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for best management practices (BMPs), use of low impact development and treatment control approaches to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed best management practices BMPs.

8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted and only temporary irrigation is installed within 10 feet of bluff edge (Bluff Development Area C).

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 along the Upper Newport Bay Bluffs. 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 with a new single-family residence. No changes to the existing curb cut along Galaxy Drive is required to accommodate the replacement three-car garage and public parking along the street will remain unaffected. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project site is located adjacent to Galaxy View Park, which provides enhanced public access to the bluff edge. The project is designed and sited so as not to block or impede existing public access opportunities.
2. The project site is located adjacent to and immediately south of Galaxy View Park, which is a designated public viewpoint in the Coastal Land Use Plan and offers public views of the Upper Newport Bay. Site evaluation revealed that the proposed one-story design is consistent with the existing neighborhood pattern of development and will not affect the existing views afforded from Galaxy View Park. The project will replace an existing single-family home with a new single-family home that complies with all applicable development standards, including the Bluff Overlay standards that requires an increased 25-foot setback from the bluff edge. Galaxy View Park is approximately 500 feet in width and improved with public benches and landscaping that orients and frames views toward the bay and not over the subject site. Views across the project site are currently impacted due to park landscaping and fencing improvements. Project implementation includes removal of fencing within 10 feet of the bluff edge and removal of several on-site mature trees, thereby enhancing the views along the park's edge and the visual qualities of the bluff below. 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. CD2018-032, subject to the conditions set forth in Exhibit "A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective 14 days following the date this Resolution was adopted unless within such time an appeal or call for review is filed with the Community Development Director in accordance with the provisions of Title 21 Local Coastal Implementation Plan, of the Newport Beach Municipal Code. Final action taken by the City may be appealed to the Coastal Commission in compliance with Section 21.64.035 of the City's certified LCP and Title 14 California Code of Regulations, Sections 13111 through 13120, and Section 30603 of the Coastal Act.

PASSED, APPROVED, AND ADOPTED THIS 28TH DAY OF JUNE, 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. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. 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.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
7. 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.
8. 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.

9. 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.
10. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
11. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
12. 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.
13. 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.
14. 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.
15. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
16. 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.
17. 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.
18. Prior to issuance of a building permits, the approved WQMP shall be submitted with the Building Permit plans. Implementation shall be in compliance with the approved WQMP and any changes could require separate review and approval by the Building Division.
19. 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. No permanent irrigation shall be installed within 10 feet of bluff edge. The plans shall be approved by the Planning Division.

20. The existing 3-foot-high metal picket fence that currently encroaches beyond the bluff side property line shall be removed and relocated in compliance with the Bluff Overlay standards.
21. 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.
22. 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.
23. 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.
24. This Coastal Development Permit No. CD2018-032 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.
25. 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 Ashby Residence including, but not limited to, Coastal Development Permit No. CD2018-032 (PA2018-073). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages, which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

CC:

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RESOLUTION NO. ZA2018-080

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-010 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 102 EAST OCEAN FRONT (PA2018-020)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Geoff Sumich Design, Inc., with respect to property located at 102 East Ocean Front, requesting approval of a coastal development permit.
2. The lot at 102 East Ocean Front is legally described as the Westerly 35 feet of Lots 14 and 15, Block 11 of East Newport Tract, in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 3, Page 17 of Miscellaneous Maps, records of Orange County, California.
3. The applicant proposes to demolish an existing single-family residence and construct a new approximately 2,324-square-foot, two-story, single-family residence with attached 2-car garage. The design includes hardscape, walls, landscaping, and drainage facilities.
4. The subject property is designated Single-Unit Residential Detached (RS-D) by the General Plan Land Use Element and is located within the Single-Unit Residential (R-1) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Single Unit Residential Detached (RSD-D) – (20.0 – 29.9 DU/AC) and it is located within the Single-Unit Residential (R-1) Coastal Zone District.
6. On August 17, 2017, the Planning Commission adopted Resolution No. 2064 approving an alternative rear setback of 5 feet in lieu of the default 10 feet due to the historical reorientation of the lot that resulted in inequitable setbacks and associated buildable area.
7. A public hearing was held on June 28, 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 1,933-square-foot, two-story, single-family residence and attached 391-square-foot 2-car garage.
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 21.52.015 (Coastal Development Permits, Findings and Decision) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 2,610 square feet and the proposed floor area is 2,324.2 square feet.
 - b. The proposed development provides the minimum required setbacks, which are 10 feet along the front property line abutting the boardwalk and beach, 3 feet along each side property line (including Island Avenue), and 5 feet along the rear interior property line.
 - c. The flat roof and guardrails are less than 24 feet from established grade (12.14 feet NAVD88), which comply with the maximum height requirements.
 - 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. There are also scattered three-story residences within the project vicinity. The proposed design, bulk, and scale of the development is consistent with the existing neighborhood pattern of development and expected future development.
3. The development fronts a sandy beach that is more than 500 feet wide. The project site is not protected by a bulkhead. The finished floor elevation of the proposed dwelling is 16.85 (NAVD 88), which complies with the minimum 9.00 (NAVD88) elevation standard.
4. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by GeoSoils, Inc., dated June 22, 2017 (with an addendum provided April 10, 2018) for the project. The report concludes that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. The report also concludes that the proposed project is reasonably safe from sea level rise, considering a 1.25-foot sea level rise (the low range of projected sea level rise over the 75-year design life of the structure based on estimates for sea level rise provided by the National Research Council 2012 SLR).
5. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
6. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
7. The property is located more than 200 feet from 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.
8. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted

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:

9. The project site is located between the nearest public road and the sea or shoreline. To the southwest of the subject property, a public boardwalk separates the site from the public beach. The boardwalk provides lateral public access and views of the ocean. The project does not include any structures that would impede lateral access or views.
10. Vertical access to the beach is available directly adjacent to the west of the site the along Island Avenue street end. The project does not include any offsite features that could impede vertical public access. The proposed accessory structures within the front setback abutting the beach comply with zoning code standards for front setbacks on Balboa Peninsula. Pursuant to the Zoning Code and Implementation Plan, any fences and walls proposed with heights in excess of 42 inches (up to 60 inches) within the front setback shall be 40 percent open for the portion above two feet in height (i.e. wrought iron, plexiglass, open grillwork, etc.). This standard design requirement would ensure that public views are not obstructed from the Island Avenue street end.
11. 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 standard R-1 lot (consisting of portions of lots) with a new single-family residence. Therefore, the project does not involve a change in land use, density or intensity that will result in increased demand on public access and recreation opportunities. Furthermore, the project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.
12. The project site is not located adjacent to designated coastal view roads, public access ways, or Coastal Viewpoints as identified in the Coastal Land Use Plan. Nonetheless, the site is located adjacent to a public beach. As currently developed, the existing property and other residences along East Ocean Front are located within the view shed of the beach. However, the proposed single-family residence complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to existing public views.
13. The existing residence includes a non-conforming one-car garage. The certified LCP Implementation Plan requires a single-family residence of less than 4,000 square feet to provide a two-car garage. In order to accommodate the code-required garage, there will be a loss of one street parking space. However, the loss of one street parking space will be offset by the provision of an additional off-street parking space within the new two-car garage.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-010, 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 28TH DAY OF JUNE, 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. *Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices to address the threat of damage or destruction from waves, erosion, storm conditions, landslides, seismic activity, bluff retreat, sea level rise, or other natural hazards that may affect the property, or development of the property, today or in the future. The agreement shall be binding against the property owners and successors and assigns.*
3. *Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.*
4. 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.
5. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
6. This Coastal Development Permit does not authorize any development seaward of the private property.
7. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan (CPPP).
8. 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.

9. 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.
10. 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.
11. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
12. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
13. 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.
14. 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.
15. 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.
16. Prior to the issuance of building permits, the applicant shall submit a final drainage and grading plan. The plan shall be subject to the review and approval by the Building Division.
17. 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.
18. 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.
19. 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.

20. 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.
21. 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.
22. 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.
23. This Coastal Development Permit No. CD2018-010 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.
24. 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 Johnson Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-010 (PA2018-020). 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. ZA2018-081

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-052 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW THREE-STORY, SINGLE-FAMILY RESIDENCE WITH AN ATTACHED TWO-CAR GARAGE AT 309 CORONADO STREET (PA2018-119)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Sepulveda Builders, Inc. ("Applicant"), on behalf of 309 Coronado, LLC, the property owner, with respect to property located at 309 Coronado Street, requesting approval of a coastal development permit.
2. The property is legally described as Lot 45 of Tract 511, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish an existing single-family residence and construct a new three-story, 2,200-square-foot, single-family residence with an attached 420-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 June 28, 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 an existing single-family residence and the construction of a new 2,200-square-foot single-family residence and attached 420-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 2,620 square feet, which complies with the maximum allowable floor area limit of 2,688 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are nine (9) feet along the front property line abutting Coronado Street, three (3) feet along each side property line, and five (5) feet along the rear property line abutting the alley.
 - 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 9.00 feet based on the North American Vertical Datum of 1988 (“NAVD88”), which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two vehicles, in compliance with the minimum parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with one- to three-story residential structures. Newer residences may have a rooftop deck and a partial third story. The design, bulk, and scale of the proposed development is consistent with the existing and anticipated neighborhood pattern of development.
3. The project site is located approximately 350 feet from the Newport Bay and is separated from the water by an alleyway and other developed residential lots. The finished first floor

elevation 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.

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 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 a designated public viewpoint, is not near a coastal view road as designated by the Local Coastal Plan, 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 an existing single-family residence 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 coastal access is provided along Edgewater Avenue East, approximately 350 feet north of the project site. Vertical access to the bay front is provided at multiple street ends throughout the neighborhood, including the Coronado Street end. The proposed project does not alter or affect existing public coastal access conditions.
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 evaluation of the project site and surrounding area did not identify any other nearby public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family residence with a new single-family residence that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the anticipated 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. CD2018-052, 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 28TH DAY OF JUNE, 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. CD2018-052 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 Coronado Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-052 (PA2018-119). 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. ZA2018-082

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH, CALIFORNIA APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-029 TO DEMOLISH AN EXISTING RESIDENTIAL DUPLEX AND CONSTRUCT A NEW THREE-STORY DUPLEX WITH TWO ATTACHED GARAGES AND TWO CARPORTS AT 304 AND 304-½ 36TH STREET (PA2018-068)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Bill Caskey + Associates, Inc. (“Applicant”) on behalf of Andrew Patterson, the property owner, with respect to property located at 304 and 304-½ 36th Street, requesting approval of a coastal development permit (“CDP”).
2. The property is legally described as Lot 3 in Block 235 of Tract 418, in the City of Newport Beach, County of Orange, State of California.
3. The Applicant proposes to demolish an existing residential duplex and construct a new three-story, 3,207-square-foot residential duplex, including two attached garages and two carports. 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-E (Two-Unit Residential, 30.0 – 39.9 DU/AC) and the property is located within the R-2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on June 28, 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 a duplex or similar multi-family residential structures totaling no more than four dwelling units in a residential zone. The proposed project consists of the demolition of an existing residential duplex and construction of a new three-story, 3,207-square-foot residential duplex, including two attached garages and two carports 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 3,207 square feet, which complies with the maximum allowable floor area limit of 3,230 square feet.
 - B. The proposed development will provide the minimum required setbacks, which are five (5) feet along the front property line abutting 36th Street, three (3) feet along each side property line, and five (5) feet along the rear property line abutting the alley.
 - 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 9.00 feet based on the North American Vertical Datum of 1988 ("NAVD88"), which complies with the maximum height limitation.
 - D. The project includes one enclosed garage parking space and one covered carport for each unit, in compliance with the minimum parking requirement for two-unit residential development.
2. The neighborhood is predominantly developed with one- and two-story residential structures. Newer residences in the zoning district may have a rooftop deck and a partial third story. The design, bulk, and scale of the proposed development is consistent with the anticipated neighborhood pattern of development.
3. The project site is located approximately 200 feet from the Rialto Channel and is separated from the water by other developed residential lots and public rights-of-way. The finished first floor elevation 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 7.10 feet (NAVD88)

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 not located between the nearest public road and the sea or shoreline, and the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities.
2. The residential lot does not currently provide nor does it inhibit public coastal access. Public coastal access to the channel is provided at multiple street ends throughout the neighborhood and to the public beach area via 36th Street. The proposed project does not alter or affect existing public coastal access conditions.

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 a coastal lot and will replace an existing residential duplex with a new residential duplex 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. CD2018-029, 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 28TH DAY OF JUNE, 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. CD2018-029 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 Patterson Residence Coastal Development Permit including, but not limited to, Coastal Development Permit No. CD2018-029 (PA2018-068). This indemnification shall

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

RESOLUTION NO. HO2018-001

A RESOLUTION OF THE HEARING OFFICER OF THE CITY OF NEWPORT BEACH APPROVING REASONABLE ACCOMODATION NO. RA2018-001 FOR THE PROPERTY LOCATED AT 205 NORTH BAY FRONT (PA2018-069)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Jeff Benson, Architect on behalf of Marvin and Jill Landon, requesting approval of a reasonable accommodation, with respect to property located at 205 North Bay Front, Newport Beach, California and legally described as Lot 3 in Block 4 of the Re-Subdivision of Section 1 of Balboa Island in the City of Newport Beach, County of Orange, State of California, as per map recorded in Book 6, Page 30 of Miscellaneous Maps, in the office of the County Recorder of said Orange County, Assessor's Parcel No. 050-022-22 ("Property").
2. The applicant has submitted a reasonable accommodation application requesting relief from the Newport Beach Municipal Code ("NBMC") Section 20.18.030 (Residential Zoning Districts General Development Standards) and Section 21.18.030 (Residential Coastal Districts General Development Standards) to allow the addition of an elevator to exceed the maximum allowed floor area for an existing single-family home. The proposed elevator is approximately five feet (5') wide, adding 40 square feet to the existing 3,403-square-foot single-family dwelling. The existing dwelling and new elevator meet all other Zoning Code and Local Coastal Program requirements including setbacks and height. The elevator is requested to provide access to the residence for an individual with a disability.
3. The Property is designated Two-Unit Residential (RT) by the General Plan Land Use Element and is located within the Balboa Island (R-BI) Zoning District.
4. The Property is located within the coastal zone. The Coastal Land Use Plan category is Two Unit Residential (RT-E) and it is located within the Balboa Island (R-BI) Coastal Zoning District.
5. The project is exempt from the requirements of a coastal development permit pursuant to NBMC Section 21.52.035.C because the project would not result in any improvement to the structure that results in changes in floor area exceeding ten percent (10%) of the existing floor area or ten percent (10%) of the existing height, parking demand, or change the general level of activity within the neighborhood.
6. A public hearing was held on June 26, 2018, in the Newport Beach Conference Room (Bay B – 1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach

Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Hearing Officer at this 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 project involves a minor addition and alterations to an existing single-family residence involving the addition of an elevator.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. A letter from Gregory Tchejeyan, MD has been submitted by the applicant supporting this claim and the need for convenient elevator access. The statement indicates that due to the severity of the use of the knees that the doctor recommends avoidance of stairs and the use of elevators instead. The installation of an elevator is necessary for the individual to access the upper levels of the home, including bedrooms. The report from Dr. Tchejeyan supports a finding that the severity of the condition of the resident's knees meets the Fair Housing definition of "disability" in that this condition substantially limits the major life activity of "walking."

Finding:

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

Facts in Support of Finding:

1. The addition of the wheel chair accessible elevator is needed to gain access to the upper levels of the residence for a person with a disability to more fully enjoy the

use of the home. All of the bedrooms and recreation areas are located on the upper levels.

2. In a letter dated May 2, 2018, by Jeff Benson the project architect, states that alternative elevator locations within the existing area of the home are infeasible due to the existing unique configuration of a split vertical circulation. The existing configuration includes one stairway between the first and second floors, a separate stairway for the circulation between the second floor and the roof deck, and one hallway between the two stairs. Locating the elevator within the existing area would disrupt the existing wheelchair accessible hallways, create loss of use of primary living spaces, and would cause unknown structural alterations with dramatically higher construction costs.
3. With consideration of the factors provided by NBMC Section 20.52.070(D)(3-4), the requested reasonable accommodation is necessary to provide the disabled individual an equal opportunity to use and enjoy a dwelling. If the requested accommodation is granted, the disabled person will be able to access the upper levels of the residence, thereby enhancing their quality of life. Any modifications necessary to make the upper levels accessible cannot be accommodated within the existing residence without more significant disruption to the interior of the home and could be impossible given the existing layout. Approval of the accommodation will not alter the character of the neighborhood, because the 40-square-foot addition is a nominal increase (1 percent) in floor area, complies with applicable setback and height limitations, and retains a design, bulk, and scale of development that is consistent with the surrounding neighborhood pattern of development. Furthermore, the addition of the elevator will not increase traffic or affect on-site parking.

Finding:

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

Facts in Support of Finding:

1. Allowing the construction of an elevator and exceeding maximum floor area by 40 square feet would not impose an undue financial or administrative burden on the City. The administrative costs of processing the building permit will be offset by normal building permit fees.

Finding:

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

Facts in Support of Finding:

1. The proposed accommodation would not result in any fundamental alterations to the character and use of home or the neighborhood. The new elevator area is within an existing patio area within a cut-out of the existing dwelling, about halfway down the northwesterly side of the property and is not visible from the street or from the bay. The new area is partially covered by existing second floor area and the new footprint will extend approximately five feet (5') by five feet (5') into the existing patio area. The existing dwelling and the new elevator will meet all of the code requirements for height and setbacks.
2. The proposed elevator represents a nominal increase in floor area (one percent) and would not intensify the existing single-unit residential use of the property; therefore, the requested accommodation would not undermine the express purpose or land use identified by the City's General Plan.

Finding:

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

Facts in Support of Finding:

1. The elevator would be constructed in accordance with the required Building and Safety Codes; therefore, the proposed project would not pose a threat to the health or safety of other individuals or substantial physical damage to the property of others. The approval of this reasonable accommodation is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable codes.
2. The proposed deviation from development standards, exceeding the floor area limit by 40 square feet, is within an existing patio area that will be partially covered by existing second floor area. The elevator fits into the existing design of the dwelling, does not encroach into the setback areas and is compliant with the height limitations of the Zoning Code. The structure has not proven to be detrimental to the occupants of the property, nearby properties, neighborhood, or City.

Finding:

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

Facts in Support of Finding:


1. Pursuant to Section 21.16.020.E, (Reasonable Accommodations) of the Local Coastal Program Implementation Plan, the review authority may grant reasonable accommodations to the City's coastal zoning and land use regulations, policies, and practices when needed to provide an individual with a disability an equal opportunity to use and enjoy a dwelling in compliance with Federal and State Fair Housing Laws.
2. Pursuant to NBMC Section 21.52.035.C.1, the project is exempt from the requirements from a coastal development permit since the modifications to the existing residence do not result in an increase of gross floor area, height, or bulk of the structure by more than ten percent (10%).
3. There are no feasible alterations for providing an accommodation at the dwelling that would provide greater consistency with the Certified Local Coastal Program. Any modifications necessary to make the upper levels accessible cannot be accommodated without more significant disruption to the interior of the home, including wheelchair accessible hallways, significant structural alterations and dramatically increased construction cost that may render the project infeasible. Furthermore, the resulting design, bulk, and scale of development maintains a building envelope consistent with the existing neighbor character and will not degrade the impacts to public views or coastal access.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Hearing Officer of the City of Newport Beach hereby approves Reasonable Accommodation No. RA2018-001, 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 is filed with the City Clerk in accordance with the provisions of NBMC Title 20 Planning and Zoning.

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


_____, Hearing Officer

Edward J. Johnson

EXHIBIT "A"

CONDITIONS OF APPROVAL

PLANNING

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval. (Except as modified by applicable conditions of approval).
2. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recently, City-adopted version of the California Building Code. The construction plans must meet all applicable State Disabilities Access requirements.
3. The reasonable accommodation shall lapse if the exercise of rights granted by it are discontinued for at least one hundred eighty (180) consecutive days.
4. If the person(s) initially occupying the residence vacates or conveys the property for which the reasonable accommodation was granted, the reasonable accommodation shall remain in effect only if the Director determines that the modifications authorized by this reasonable accommodation application are physically integrated into the residential structure and cannot be easily removed or altered to make the residence comply with the Zoning Code.
5. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
6. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Use Permit.
7. A copy of the Resolution, including conditions of approval set forth in this Exhibit "A", shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
8. 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 NBMC Title 20 Planning and Zoning.
9. 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 Landon Elevator Addition including, but not limited to,

Reasonable Accommodation No. RA2018-001 (PA2018-069). 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.