



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

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION  
FROM: Seimone Jurjjs, Community Development Director  
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending August 24, 2018.

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### ZONING ADMINISTRATOR ACTIONS AUGUST 23, 2018

- Item 1: Ritner Group Lot Line Adjustment No. LA2018-001 (PA2018-026)  
Site Address: 1604 and 1610 South Bay Front
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| Action: Approved by Resolution No. ZA2018-098 | Council District | 5 |
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- Item 2: Contreras Residence Coastal Development Permit No. CD2018-012 (PA2018-031)  
Site Address: 440 Harbor Island Drive
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| Action: Approved by Resolution No. ZA2018-099 | Council District | 5 |
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- Item 3: Blue Bottle Coffee Minor Use Permit No. UP2018-009 (PA2018-158)  
Site Address: 3366 Via Lido
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| Action: Approved by Resolution No. ZA2018-100 | Council District | 1 |
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APPEAL PERIOD: An appeal or call for review may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

**RESOLUTION NO. ZA2018-098**

**A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING LOT LINE ADJUSTMENT NO. LA2018-001 FOR A LOT LINE ADJUSTMENT LOCATED AT 1604 AND 1610 SOUTH BAY FRONT (PA2018-026)**

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

**SECTION 1. STATEMENT OF FACTS.**

1. An application was filed by Ritner Group, Inc., with respect to property located at 1604 and 1610 South Bay Front, and legally described as Lots 3 and 4 and the Westerly 20 feet of Lot 5 in Block 2 of Section 5, Balboa Island in the City of Newport Beach (Certificate of Compliance 2013-016), and Lot 6 and the Easterly 10 feet of Lot 5 in Block 2 of Section 5, Balboa Island in the City of Newport Beach (Certificate of Compliance 2013-137), respectively, requesting approval of a lot line adjustment.
2. The applicant requests a lot line adjustment application to adjust the interior boundary by 10 feet between two contiguous parcels. Land taken from 1604 South Bay Front will be added to 1610 South Bay Front. There will be no change in the number of parcels.
3. The subject properties are located within the Balboa Island (R-BI) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
4. The subject properties are located within the Coastal Zone. The Coastal Land Use Plan category is Two-Unit residential (RT-E).
5. A public hearing was held on August 23, 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. 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 properties at 1604 and 1610 South Bay Front are currently vacant and were previously developed with residential uses. The proposed lot line adjustment will not change the existing General Plan land use and zoning district of either of the two parcels.
2. The proposed lot line adjustment will not result in a development pattern that is inconsistent with the surrounding neighborhood. Little Balboa Island is primarily developed with single and two-unit developments. Both properties will continue to allow for single-unit and two-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-BI (Balboa Island) 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 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 permitted 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 lot line adjustment will take approximately 850 square feet of land from the 1604 South Bay Front parcel and add to the 1610 South Bay Front parcel. The resulting net areas of the proposed parcels are 5,950 square feet and 4,250 square feet, respectively, which complies with minimum lot area requirements in the R-BI Zoning District.
2. The proposed parcels will not become more nonconforming as to lot width, depth, and area than the parcels that currently exist prior to the lot line adjustment. Minimum lot width for corner lots in the R-BI Zoning District is 60 feet. The existing corner lot at 1610 South Bay Front is 40 feet in width, and is proposed to increase to 50 feet in width, which is less nonconforming than the current condition. The existing lot at 1604 South Bay Front is 80 feet in width, and is proposed to decrease to 70 feet in width, which conforms with the minimum width requirement of 50 feet for interior lots in the R-BI 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 subject properties from South Bay Front and the alley at the rear is not affected by the lot line 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. The final configuration of the parcels involved will not result in the loss of direct vehicular access from the alley at the rear of each parcel.

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 parcels does not result in a requirement for revised setbacks since the lots are not proposed to be reoriented. The setbacks shall continue to apply to the adjusted parcels per the Zoning Code in the same way they applied to the previous parcel configuration. Therefore, the lot line adjustment does not result in the reduction of any existing setbacks.

## SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Lot Line Adjustment No. LA2018-001, 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 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 23<sup>RD</sup> DAY OF AUGUST, 2018.**



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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.
3. 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.
4. 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 **Ritner Group Lot Line Adjustment** including, but not limited to, **Lot Line Adjustment No. LA2018-001 (PA2018-026)**. 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. ZA2018-099

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-012 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 1-CAR AND 2-CAR GARAGES LOCATED AT 440 HARBOR ISLAND DRIVE (PA2018-031)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Edward A. Contreras, with respect to property located at 440 Harbor Island Drive, requesting approval of a coastal development permit.
2. The lot at 440 Harbor Island Drive is legally described as Lot 42 of Tract 3867 in the City of Newport Beach, County of Orange, State of California.
3. The applicant requests a coastal development permit (CDP) to allow the demolition of an existing single-family residence and construction of a 5,162-square-foot, three-story single-family residence with three-garage spaces containing 702 square feet in aggregate. The project includes repair and reinforcement of the existing bulkhead and a cantilevered deck. The design includes hardscape, walls, landscaping, and drainage facilities. The project complies with all applicable development standards and no deviations are requested.
4. The subject property is designated RS-D (Single-Unit Residential Detached) by the General Plan Land Use Element and is located within the R-1 (Single-Unit Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is RSD-B (Single-Unit Residential Detached – (6.0 – 9.9 DU/AC) and it is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on August 23, 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 5,162-square-foot single-family residence and attached one and two-car garages containing 702 square feet combined.
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 7,124 square feet and the proposed floor area is 5,864 square feet.
  - b. The proposed development provides the minimum required setbacks, which are 6 feet along the front property line abutting Harbor Island Drive (for the building), 4 feet along each side property line and 10 feet along the other front property line abutting the water. Portion of the existing structure that encroach into the side setback will be removed as part of demolition.
  - c. The highest guardrail is less than 24 feet from established grade (10.535 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height requirements.
  - d. The project includes garage parking for a total of three vehicles, complying with the minimum three-car garage parking requirement for single-family residences with more than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story single-family residences and scattered three-story single-family residences. The proposed design, bulk, and

scale of the development is consistent with the existing neighborhood pattern of development.

3. The interior finished floor elevation of the proposed dwelling is 9.37 feet (NAVD 88) at its lowest level, which complies with the minimum 9.00-foot (NAVD88) elevation standard.
4. The development fronts the Newport Bay. The project site is protected by an existing cast-in-place concrete bulkhead. A Bulkhead Conditions Report was prepared by William Simpson & Associates, Inc. on February 1, 2018, and concluded that the existing jetted-in pre-cast concrete panels of the seawall and cast-in place concrete coping were found to be in generally good condition without noticeable evidence of distress. The existing bulkhead is proposed to be repaired and reinforced to support the cantilevered deck that includes a concrete curb with a height of 9.82 feet NAVD88 (10.0 feet MLLW) which complies with the City's Harbor Design Criteria standard of 9.82 feet NAVD88 (10.0 feet MLLW).
5. The proposed replacement cantilevered concrete deck has been designed in compliance with patio deck standards of Municipal Code Section 21.30C.050.G5. Specifically, the deck projects a maximum of five feet beyond the bulkhead, maintains minimum setbacks of five feet from the prolongations of the side property lines, and is located outside tidelands trust. However, the projection beyond the existing bulkhead falls under permit jurisdiction of the California Coastal Commission. Since the proposed deck includes an integrated raised curb required to meet the City's Harbor Design Criteria Standard, a condition of approval has been included requiring the application to apply for and obtain approval of the coastal development permit from the California Coastal Commission prior to the issuance of a building permit
6. A Coastal Hazards Report and Sea Level Rise Analysis was prepared by William Simpson & Associates, Inc. dated July 26, 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 Bulkhead Conditions Report and Coastal Hazards Report and Sea Level Rise Analysis conclude that once reinforcement and repair of the existing bulkhead is completed, no additional repair or replacement of the seawall shall be required for the life of the development. However, in order to protect adjacent properties, provide additional protection for the proposed residence (should the sea level reach heights over the existing bulkhead), and provide a complete system of bulkheads along the bay, the proposed cantilevered deck includes a concrete curb with a height of 9.82 feet NAVD88 (10.0 feet MLLW) which complies with the City's Harbor Design Criteria standard of 9.82 feet NAVD88 (10.0 feet MLLW). Thus, the improved concrete curb is sufficient protection 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). If found not adequate for the actual sea level rise over the next 75 to 100 years, the bulkhead assembly allows increases in height without further seaward encroachment.
7. 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.

8. 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.
9. 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 preliminary WQHP has been prepared for the property by TOAL Engineering, Inc., dated February 5, 2018. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of an LID approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs.
10. The property is located adjacent to the bay. A Construction Erosion Control Plan was provided to implement temporary Best Management Practices (BMPs) during construction to minimize erosion and sedimentation and to minimize pollution of runoff and coastal waters derived by construction chemicals and materials. The project design also addresses water quality through the inclusion of 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.
11. Proposed landscaping complies with Implementation Plan Section 21.30.075. A condition of approval is included that requires drought-tolerant species. Prior to issuance of building permits, the final landscape plans will be reviewed to verify invasive species are not planted

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline. 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 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. The nearest lateral access is located less than 200 feet north of the property near the intersection of Harbor Island Drive and Bayside Drive. Harbor Island Drive does not contain an outlet. Public access points are also provided to the south along the opposite side of Harbor Island Drive, where there is a public beach along the Bay. The project does not include any offsite features that could impede existing access. The project is designed and sited (appropriate height, setbacks, etc.) so as not to block or impede existing public access opportunities.

2. The project site is not located adjacent to a coastal view road, public access way, or Coastal Viewpoint as identified in the Coastal Land Use Plan. The nearest coastal viewpoint is less than 200 feet north of the property near the intersection of Harbor Island Drive and Bayside Drive. Similarly, the nearest coastal view road segment is located along Bayside Drive. These areas offer localized, limited views of the harbor and several residences. Site evaluation revealed that the proposed three-story design is consistent with the existing neighborhood pattern of development containing two and some scattered three-story residences, and will not affect the existing, limited views afforded from the small viewing area. The project will replace an existing single-family home with a new single-family home that complies with all applicable development standards, including the third story setbacks that provide additional 15-foot stepbacks along the bay and street property lines (as measured from the setback lines). There are also two-foot third floor stepbacks from the side setback lines. The project presents the opportunity to enhance views by updating an old structure with a new building with an updated design. All structures within the front setback area along the bay would be limited to 42" in height, ensuring that the bay does not appear to be walled off. 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
3. 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. Additionally, the project does not contain any unique features that could degrade the visual quality of the coastal zone.

#### SECTION 4. DECISION.

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

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-012, 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 23<sup>rd</sup> DAY OF AUGUST, 2018.**



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Patrick J. Alford, Zoning Administrator

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

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. Prior to the issuance of a building permit, an agreement in a form approved by the City Attorney between the property owner and the City shall be executed and recorded waiving rights to the construction of future shoreline protection devices including the repair and maintenance, enhancement, reinforcement, or any other activity affecting the bulkhead, that results in any encroachment seaward of the authorized footprint of the bulkhead or other shoreline protective device. The agreement shall be binding against the property owners and successors and assigns.
3. Prior to the issuance of a building permit, the property owner shall submit a notarized signed letter acknowledging all hazards present at the site, assuming the risk of injury or damage from such hazards, unconditionally waiving any claims of damage against the City from such hazards, and to indemnify and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of development.
4. 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. The cantilevered deck shall comply with the design standards of Municipal Code Sections 21.30.C.050.G.5 and 17.35.020C.
7. Prior to the issuance of a building permit and harbor permit from the City for the proposed cantilevered deck, the applicant shall apply for and obtain approval of a coastal development permit from the California Coastal Commission.
8. Prior to the issuance of a building permit for the proposed residence, the applicant shall apply for and obtain approval of a coastal development permit from the California Coastal Commission for the proposed cantilevered deck with integrated concrete curb, unless plans are redesigned to eliminate the cantilevered deck and incorporate a bulkhead cap at the existing bulkhead wall to the City's Harbor Design Criteria standard of 9.82 feet NAVD88 (10.0 feet MLLW).

9. Best Management Practices (BMP's) and Good Housekeeping Practices (GHP's) shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Erosion Control Plan.
10. 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.
11. 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.
12. 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.
13. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
14. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
15. 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.
16. 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.
17. 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.
18. 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.
19. Prior to issuance of a building permit, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.

20. Prior to issuance of a building permit, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the Coastal Development file. The plans shall be identical to those approved by all City departments for building permit issuance. The approved copy shall include architectural sheets only and shall be reduced in size to 11 inches by 17 inches. The plans shall accurately depict the elements approved by this Coastal Development Permit.
21. Prior to issuance of building permits, the final WQHP/WQMP shall be reviewed and approved by the Building Division. Implementation shall be in compliance with the approved CPPP and WQHP/WQMP and any changes could require separate review and approval by the Building Division.
22. Prior to the issuance of building permits, the applicant shall submit a final landscape and irrigation plan. These plans shall incorporate drought tolerant plantings, non-invasive plant species and water efficient irrigation design. The plans shall be approved by the Planning Division.
23. All landscape materials and irrigation systems shall be maintained in accordance with the approved landscape plan. All landscaped areas shall be maintained in a healthy and growing condition and shall receive regular pruning, fertilizing, mowing, and trimming. All landscaped areas shall be kept free of weeds and debris. All irrigation systems shall be kept operable, including adjustments, replacements, repairs, and cleaning as part of regular maintenance.
24. Prior to the issuance of building permit, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
25. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
26. This Coastal Development Permit No. CD2018-012 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
27. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of Contreras Residence including, but not limited to, Coastal Development Permit No. CD2018-012 (PA2018-031). 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. ZA2018-100

### **A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2018-009 FOR A TAKE-OUT-SERVICE LIMITED, FOOD SERVICE ESTABLISHMENT LOCATED AT 3366 VIA LIDO (PA2018-158)**

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

#### SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Christina Brown of H. Hendy Associates, representing prospective tenant, Blue Bottle Coffee, with respect to property located at 3366 Via Lido, and legally described as Parcel 2 of Resubdivision No. 433, being the N.W.'ly 20 feet of Lots 7, Lots 8 thru 14 inclusive, and the S.E.'ly 40' of Lot 15 of Tract No. 1622, as shown on the map recorded in Book 47, Page 39 of Miscellaneous Maps, records of Orange County, California.
2. The applicant proposes a minor use permit to allow a 1,372-gross-square-foot coffee shop (take-out service, limited) to operate in the ground floor of an existing 15,798-square-foot office building. The project includes tenant improvements to create a 502-square-foot net public area, which includes a waiting area and seating for six patrons. The proposed hours of operation are 7:00 a.m. to 7:00 p.m., daily. No late hours (after 11:00 p.m.) or alcohol sales are proposed as part of this application. In order to allow for future flexibility, a condition of approval is included allowing hours of operation between 7 a.m. and 10 p.m., daily.
3. The subject property is designated MU-W2 (Mixed-Use Water Related) by the General Plan Land Use Element and is located within the MU-W2 (Mixed-Use Water Related) Zoning District.
4. The subject property is located within the coastal zone. The Coastal Land Use Plan category is MU-W (Mixed-Use Water Related) and it is located within the MU-W2 (Mixed-Use Water Related) Coastal Zone District. The proposed coffee shop does not result in an increase in the parking rate and therefore is not considered a change or intensification of the existing use that would require a coastal development permit.
5. A public hearing was held on August 23, 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 15303 under Class 3 (New Construction or Conversion of Small Structures) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential to have a significant effect on the environment.
2. This Section exempts the construction and location of limited numbers of new, small facilities or structures (up to 10,000 square feet in area) and the conversion of existing small structures from one use to another where only minor modifications are made to the interior or exterior of the structure. The project involves the conversion of a portion of an existing office tenant space (1,372 square feet) to a take-out service, limited, food service establishment. The scope of work thus complies with the thresholds identified under the Class 3 exemption.
3. The exceptions to this categorical exemption under Section 15300.2 are not applicable. The project location does not impact an environmental resource of hazardous or critical concern, does not result in cumulative impacts, does not have a significant effect on the environment due to unusual circumstances, does not damage scenic resources within a state scenic highway, is not a hazardous waste site, and is not identified as a historical resource.

## SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (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 MU-W2 (Mixed-Use Water Related) which applies to waterfront locations in which marine-related uses may be intermixed with buildings that provide residential on the upper floors. Permitted uses include those permitted by the CM, CV, and MU-V designations.
2. The proposed establishment is a commercial use intended to serve nearby employees, residents, and visitors to the City of Newport Beach. The proposed take-out service limited land use is consistent with land uses permitted in the CM, CV, and MU-V designations. Therefore, the use is consistent with this land use category.
3. The proposed take-out service, limited, food service 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 the MU-W2 (Mixed-Use Water Related) Zoning district. This designation applies to waterfront properties in which marine-related uses may be intermixed with general commercial, visitor-serving, and residential dwelling units on the upper floors.
2. Take-out service, limited, food service establishments, are listed as a permitted use in the MU-W2 Zoning district; however, pursuant to Table 2-5 of Newport Beach Municipal Code Section 20.20.020 (Commercial Zoning Districts Land Uses and Permit Requirements) approval of a minor use permit is required due to its location within 500 feet of a residential zoning district.
3. The project site includes a 28-space on-site surface parking lot and a 33-space off-site parking lot at 516 32<sup>nd</sup> Street that are owned in common. The Zoning Code requires a minimum of one off-street parking space for every 250 square feet of floor area for a take-out service, limited use. Similarly, the Zoning Code requires a minimum of one off-street parking space for every 250 square feet of floor area for office uses. A total of 60 parking spaces are required for the office tenant and coffee shop where 61 parking spaces are provided for the subject property. No intensification or enlargement is proposed; therefore, no additional parking is required.
4. 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, food service use classification, which includes a maximum of six seats with no alcohol service.

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 an existing office building will be accessible from Via Lido, which provides 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, office, and multi-family residential developments.

3. A mixed-use development (retail/office and residential units) is located to the west of the property and multi-family residential uses are located to the east and south. As conditioned, the allowed hours of operation will be 7:00 a.m. to 10:00 p.m., daily, which will minimize any disturbance to residences near the property.
4. The proposed coffee shop will share an existing trash enclosure at the front of the property 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.
5. Based on the operational characteristics and parking rate of the proposed business, Public Works considers the proposed use a coffee shop that will not require a traffic study.

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 28-space on-site parking lot and 33-space off-site parking lot at 516 32<sup>nd</sup> Street that serve the site provide adequate parking for patrons.
2. The Fire Department reviewed the project and site to ensure adequate public and emergency vehicle access is provided. The project is conditioned to provide adequate access through the access gates to the on-site surface parking lot. The approval includes a condition requiring the surface lot gates to remain open for customer access during business hours.
3. The Building Division has reviewed the project and suggests several conditions of approval for design modifications to the tenant improvement plan to ensure adequate ADA accessibility is available for all uses on-site.
4. 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 employees, 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 office building 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. UP2018-009 (PA2018-158), 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 23<sup>RD</sup> DAY OF AUGUST, 2018.**



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Patrick J. Alford, Zoning Administrator

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**  
*(Project-specific conditions are in italics)*

**PLANNING**

1. The development shall be in substantial conformance with the approved site plan 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. 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 conditional use permit, coastal development permit, and/or traffic study.
5. 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.
6. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner, or the leasing agent.
7. 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.
8. *The hours of operation for the establishment shall be limited to 7:00 a.m. through 10:00 p.m., daily.*
9. *The sale of alcohol shall not be permitted.*
10. *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 a Conditional Use Permit.*
11. *The net public area shall be limited to 502 square feet and the gross floor area dedicated to the coffee shop shall be limited to 1,372 square feet. Prior to the issuance of building*

*permits, the net public area accessible to the public shall be clearly delineated by the physical improvements (such as the use of a different floor finish material) on the tenant improvement plans to the satisfaction of the Community Development Director.*

12. *A minimum of 60 parking spaces shall be maintained to serve the coffee shop and office uses on-site between 3366 Via Lido and 516 32<sup>nd</sup> Street parking areas.*
13. *Employees of the coffee shop shall park in the off-site parking lot located at 516 32<sup>nd</sup> Street.*
14. *The gates to the surface parking lot shall remain open during business hours for patron access.*
15. *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. 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. *A washout area (3 feet by 3 feet by 6 feet) for the restaurant trash containers shall be provided in such a way as to allow direct drainage into the sewer system and not into the Bay or storm drains.*
17. *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.*
18. *All trash shall be stored within the building or within dumpsters stored in the trash enclosure (minimum 96 square feet, three walls, and a self-latching gate) or otherwise screened from view of neighboring properties, except when placed for pick-up by refuse collection agencies. The trash enclosure shall have a decorative solid roof for aesthetic and screening purposes.*
19. *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.*
20. *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).*



21. 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.
22. 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.
23. 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.
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 **Blue Bottle Coffee Minor Use Permit** including, but not limited to, **Minor Use Permit No. UP2018-009 (PA2018-158)**. This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

#### Fire Department Conditions

25. *Prior to the issuance of building permits for site improvements, the gate across the access to the surface parking lot must comply with the Newport Beach Fire Department Guideline C.01. The Guideline requires the minimum width of any gate or opening required as a point of access to provide a minimum 14-foot unobstructed width. The minimum width may be increased depending on the length of the approach. Where gates are electronically operated, an approved key switch and an approved remote opening device shall be installed and maintained in an operational condition at all times or the gate shall be locked in the open position until operational.*

#### Building Division Conditions

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

27. *Prior to the issuance of building permits for tenant improvements, the project plans shall calculate the occupant load factor at 15 square feet per person or to the satisfaction of the Building Official.*
28. *Prior to the issuance of building permits for tenant improvements, the project plans shall reflect the accessible path of travel from accessible parking stalls and the public sidewalk to the area of remodel through the main building entrance shall be provided. The plans shall specify the slope and cross slope of the accessible path of travel, show all grade changes, ramps, and other elements along the path of travel, and indicate whether the elements comply with the current code for accessibility or not. Non-compliant elements shall be brought into compliance.*
29. *Prior to the issuance of building permits for tenant improvements, the project plans shall reflect accessible parking spaces shall be located so that persons with disabilities are not required to travel behind parking spaces other than to pass behind the parking space in which they parked (11B-502.7.1).*
30. *Prior to the issuance of building permits for tenant improvements, the project plans shall reflect common use of circulation paths within employee work areas and shall be on an accessible route with an aisle width of 36 inches if serving on elements on one side and 44 inches if serving elements on both sides (11B-203.9, 11B-403.5.1).*
31. *Prior to the issuance of building permits for tenant improvements, the project plans shall i where dining surfaces are provided for consumption of food or drink. At least 5 percent of the seating spaces and standing spaces at the dining surfaces shall comply with the built-in element requirements listed under Section 11B-902. In addition, where work surfaces are provided for use by anyone other than employees, at least 5 percent shall comply with Section 11B-902 (11B-226.1).*
32. *Prior to the issuance of building permits for tenant improvements, the project plans shall demonstrate how dining surfaces comply with Section 11B-902 and shall provide a clear floor space per Section (11B-305) positioned for forward approach, dispersed throughout the space of facility containing dining surfaces for each type of seating in a functional area (11B-226.2).*
33. *Prior to the issuance of building permits for tenant improvements, the project shall identify if food or drink is served for consumption at a counter exceeding 34 inches in height or, a portion of the main counter 60 inches in length shall be provided in compliance with Section 11B-902.3 (11B-226.3).*
34. *Prior to issuance of building permits, the project plans shall identify that the building will be protected with automatic fire sprinklers and/or a fire alarm system to the satisfaction of the Building Division.*
35. 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.

36. The construction plans must meet all applicable State Disabilities Access requirements.