



CITY OF NEWPORT BEACH COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION ACTION REPORT

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION
FROM: Seimone Jurjis, Community Development Director
SUBJECT: Report of actions taken by the Zoning Administrator and/or Planning Division staff for the week ending September 14, 2018.

ZONING ADMINISTRATOR ACTIONS SEPTEMBER 13, 2018

- Item 1: Bode/Merrifield Residence Coastal Development Permit No. CD2018-058 (PA2018-137)
Site Location: 824 Via Lido Nord
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| Action: Approved by Resolution No. ZA2018-101 | Council District | 1 |
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- Item 2: 3900 Channel Place Demolition Coastal Development Permit No. CD2018-062 (PA2018-144)
Site Location: 3900 Channel Place
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| Action: Approved by Resolution No. ZA2018-102 | Council District | 1 |
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- Item 3: Shaoulian East Balboa Residence Coastal Development Permit No. CD2017-088 (PA2017-203)
Site Location: 921 East Balboa Boulevard
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| Action: Approved by Resolution No. ZA2018-103 | Council District | 1 |
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- Item 4: Shaoulian East Ocean Front Residence Coastal Development Permit No. CD2018-089 (PA2017-204)
Site Location: 918 East Ocean Front
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| Action: Approved by Resolution No. ZA2018-104 | 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. ZA2018-101

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-058 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE AND ATTACHED TWO-CAR GARAGE AT 824 VIA LIDO NORD (PA2018-137)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Michael Terry of Graystone Custom Builders (“Applicant”), on behalf of Scott Bode and Linda Bode Merrifield (“Owners”), with respect to property located at 824 Via Lido Nord, requesting approval of a coastal development permit.
2. The property is legally described as Lot 343 of Tract 907.
3. The applicant proposed the demolition of an existing single-family residence and construction of a two-story, 3,729-square-foot, single-family residence with an attached 569-square-foot, two-car garage. The project includes landscape, hardscape and subsurface drainage facilities. The site is protected by an existing private bulkhead that will be reinforced in conjunction with the proposed construction. 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-C (Single-Unit Residential Detached - (10.0 - 19.9 DU/AC) and the property is located within the R-1 (Single-Unit Residential) Coastal Zone District.
6. A public hearing was held on September 13, 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 construction of a new two-story, 3,729-square-foot, single-family residence with an attached 569-square-foot, two-car garage in the R-1 Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The proposed development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 5,100 square feet and the proposed gross floor area is 4,298 square feet.
 - b. The proposed development will provide the minimum required setbacks, which are four (4) feet along the front property line abutting Via Lido Nord, three (3) feet along each side property line, and ten (10) feet along the front property line abutting the waterway.
 - c. The highest guardrail and the highest roof ridge are no more than 24 feet, measured from the established grade level of 12.39 feet (NAVD88), which complies with the maximum height limitation.
 - d. The project includes enclosed garage parking for two vehicles, which complies with the minimum parking requirement for single-family residences with less than 4,000 square feet of habitable floor area.
2. The neighborhood is predominantly developed with two-story, single-family residences. The proposed design, bulk, and scale of the development will be consistent with the existing neighborhood pattern of development and expected future development.
3. The existing development includes a private seawall/bulkhead along the waterway. A Bulkhead Condition Report prepared by PMA Consulting, Inc., dated April 29, 2018, concludes that the cast-in-place wall is in good condition. In order to protect the

proposed new development, the report recommends that the wall be reinforced and repaired, and provides specific recommendations on how this should be accomplished. Once the wall has been reinforced and repaired, it is not anticipated that the wall will need further repair or replacement in the next 75 years.

4. Pursuant to NBMC Section 21.30.030(C)(3)(i)(iv), the property owner will be required to enter into an agreement with the City waiving any potential right to protection to address situations in the future in which the development is threatened with damage or destruction by coastal hazards (e.g., waves, erosion, and sea level rise). The property owner will also be required to acknowledge any hazards present at the site and unconditionally waive any claim to damage or liability against the decision authority, consistent with NBMC Section 21.30.015(D)(3)(c). Both requirements are included as conditions of approval that will need to be satisfied prior to the issuance of building permits for construction.
5. A project-specific Coastal Hazards Analysis Report was prepared by PMA Consulting, Inc., dated April 29, 2018. The report concludes that flooding, wave run up and erosion will not significantly impact this property over the life of the proposed development, provided the existing seawall is reinforced and repaired as recommended.
6. Pursuant to NBMC Section 21.35.050 (Water Quality and Hydrology Plan), because of the project site's proximity to coastal waters, a Water Quality and Hydrology Plan (WQHP) was prepared by Forkert Engineering & Surveying, Inc., dated May 25, 2018. The WQHP includes a polluted runoff and hydrologic site characterization, a sizing standard for BMPs, use of a low-impact development (LID) approach to retain the design storm runoff volume on site, and documentation of the expected effectiveness of the proposed BMPs. Construction plans will be reviewed for compliance with the approved WQHP prior to building permit issuance.
7. 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. New landscaping will be verified for compliance with NBMC Section 21.30.075. A condition of approval is included that requires drought-tolerant, and prohibits invasive, species (Condition of Approval No. 14). Prior to issuance of the building permits, the final landscape plans will be reviewed to verify invasive species are not planted.
9. 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.*

Facts in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. 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. Furthermore, the project is designed and sited so as not to block or impede existing public access opportunities.
2. The residential lot does not currently provide nor does it inhibit public coastal access. The proposed scope of work involves the removal and replacement of an existing single-family residence with a new single-family residence. Development will occur within the confines of private property, and existing coastal access conditions will not be affected. Coastal access is currently provided and will continue to be provided by adjacent small public beach areas with access from the water.
3. The project site is not located adjacent to a coastal view road, public viewpoint, public park or beach, or public accessway, as identified in the Coastal Land Use Plan. Furthermore, an investigation of the project site and surrounding area did not identify any other public view opportunities. The project site may be located within the viewshed of distant public viewing areas. However, the project will replace an existing single-family home with a new single-family home that complies with all applicable Local Coastal Program development standards and maintains a building envelope consistent with the existing and anticipated 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. CD2018-058, 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 13TH DAY OF SEPTEMBER, 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. CD2018-058 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted
4. 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.
5. 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.
6. The existing private seawall/bulkhead shall be reinforced and repaired, in keeping with the recommendations provided in the Bulkhead Condition Report prepared by PMA Consulting, Inc., dated April 29, 2018.
7. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
8. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this coastal development permit.

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9. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
 10. 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).
 11. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
 12. Prior to issuance of building permits, the applicant shall submit to the Planning Division an additional copy of the approved architectural plans for inclusion in the coastal development 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.
 13. Prior to issuance of building permits, the applicant shall submit a final construction erosion control plan. The plan shall be subject to review and approval by the Building Division.
 14. 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.
 15. 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.
 16. Prior to the issuance of building permits, the applicant shall pay any unpaid administrative costs associated with the processing of this application to the Planning Division.
 17. 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.

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18. The discharge of any hazardous materials into storm sewer systems or receiving waters shall be prohibited. Machinery and equipment shall be maintained and washed in confined areas specifically designed to control runoff. A designated fueling and vehicle maintenance area with appropriate berms and protection to prevent spillage shall be provided as far away from storm drain systems or receiving waters as possible.
 19. Debris from demolition shall be removed from work areas each day and removed from the project site within 24 hours of the completion of the project. Stock piles and construction materials shall be covered, enclosed on all sites, not stored in contact with the soil, and located as far away as possible from drain inlets and any waterway.
 20. Trash and debris shall be disposed in proper trash and recycling receptacles at the end of each construction day. Solid waste, including excess concrete, shall be disposed in adequate disposal facilities at a legal disposal site or recycled at a recycling facility.
 21. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by the current property owner or agent.
 22. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
 23. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's

approval of Bode/Merrifield Residence including, but not limited to, Coastal Development Permit No. CD2018-058 (PA2018-137). 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. ZA2018-102

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2018-062 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE LOCATED AT 3900 CHANNEL PLACE (PA2018-144)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Patterson Custom Homes, with respect to property located at 3900 Channel Place, requesting approval of a Coastal Development Permit.
2. The lot at 3900 Channel Place is legally described as Lots 1, 2 and 3, in Block 539 on Map of Canal Section in the City of Newport Beach, County of Orange
3. The applicant requests a Coastal Development Permit to demolish an existing 1,560-square-foot, single-family residence and 235-square-foot garage.
4. The subject property is designated Two-Unit Residential (R-2) Zoning District and the General Plan Land Use Element category is Two-Unit Residential (RT).
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential – 20.0 – 29.9 DU/AC (RT-D) and the Coastal Zoning District is Two-Unit Residential (R-2).
6. A public hearing was held on September 13, 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 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Existing Facilities).
2. Class 1 includes the demolition and removal of small structures including one single-family dwelling. The proposed project includes the demolition of an existing single-family dwelling located in the R-1 Coastal Zoning District.

SECTION 3. REQUIRED FINDINGS.

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

Finding:

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

Facts in Support of Finding:

1. The subject property is currently developed with a single-family dwelling on an existing lot designated for residential development by the Local Coastal Program. The project applicant requests to demolish the existing single-family dwelling. Subsequent construction will require a separate coastal development permit at a later date.
2. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code and Building Division standards and policies.
3. The project design addresses water quality with a construction erosion control plan and a post construction drainage system that includes drainage and percolation features designed to retain dry weather and minor rain event run-off on-site. Any water not retained on-site is directed to the City's storm drain system.
4. The property is not located near designated Public Viewpoints or Coastal View Roads and will not impact public coastal views.

Finding:

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

Fact in Support of Finding:

1. The project site is located between the nearest public road and the sea or shoreline; and demolition of the existing residence will not affect public recreation or access.
2. Adequate public access to the sea exists on Channel Place, through the terminus of 39th, 39th and 40th Streets. The proposed demolition of the existing residence shall not interfere with existing public access to the sea.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2018-062, 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.

PASSED, APPROVED, AND ADOPTED THIS 13TH DAY OF SEPTEMBER 2018.



Patrick J. Alford, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development (the demolition of an existing single-family dwelling, garage, and appurtenant facilities) 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 (CDP) or the processing of a new Coastal Development Permit.
3. Coastal Development Permit No. CD2018-062 shall expire unless exercised within 24 months from the date of approval as specified in Section 21.54.060 (Time Limits and Extensions) of the Newport Beach Municipal Code, unless an extension is otherwise granted.
4. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
5. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Coastal Development Permit.
6. This Coastal Development Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. Prior to issuance of the building permits, a copy of the Resolution, including conditions of approval Exhibit "A" shall be incorporated into the Building Division and field sets of plans.
8. 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.
9. 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.
10. Best Management Practices and Good Housekeeping Practices shall be implemented prior to and throughout the duration of construction activity as designated in the Construction Pollution Prevention Plan

11. 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.
12. 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.
13. 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.
14. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
15. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of 3900 Channel Place Demolition CDP including, but not limited to, Coastal Development Permit No. CD2018-062 (PA2018-144). 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. ZA2018-103

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-088 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 921 EAST BALBOA BOULEVARD (PA2017-203)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, with respect to property located at 921 East Balboa Boulevard, requesting approval of a coastal development permit.
2. The lot at 921 East Balboa Boulevard is legally described as Lot 10, Block 14, Balboa Tract.
3. The applicant proposes to allow the demolition of an existing single-family dwelling and phased future residential development.

Phase 1 would consist of developing the site with a driveway, uncovered parking, and landscaping to provide temporary vehicular access to a single-family residence located at 918 East Ocean Boulevard (Coastal Development Permit No. CD 2018-089). The temporary driveway will remain until such time a public alley is constructed providing 918 East Ocean Front vehicular access.

Phase 2 would consist of the demolition of the temporary driveway and parking lot improvements and construction of a new, 3,825-square-foot, three-story, single-family residence (including a 1,257-square-foot subterranean basement) and an attached 387-square-foot, two-car garage. Phase 2 also includes related hardscape, drainage, and landscaping improvements. The project 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-Family Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential Detached (RT-D) and it is located within the R2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on September 13, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 3,825-square-foot, single-family residence and 387-square-foot, two-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 Phase 1 driveway and parking component of the project will provide the proposed single-family development located at 918 East Ocean Front with needed vehicular access via a private easement until such time the City constructs an alley providing 918 East Ocean Front vehicular access.
2. The proposed Phase 2 development complies with applicable residential development standards including, but not limited to, floor area limitation, setbacks, height, and parking.
 - a. The maximum floor area limitation is 3,100 square feet and the proposed floor area is 2,955 square feet (excluding 1,257-square-foot subterranean basement). The floor area of a subterranean basement is not included in the calculation of total gross floor area pursuant to Newport Beach Municipal Code (NBMC) Section 21.18.030.

- b. The proposed development provides the minimum required setbacks, which are 9 feet along the front property line abutting East Balboa Boulevard, 3 feet along each side property line and 0 feet along the rear property line abutting the future 20-foot alley.
 - c. The highest guardrail is less than 24 feet from established grade (9.00 feet NAVD88) and the highest ridge is no more than 29 feet from established grade, which comply with the maximum height 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.
 - e. As a condition of approval, the property owner will be required to dedicate the rear 5 feet of the property to the City for alley purposes.
3. The neighborhood is predominantly developed with two- and three-story, single-unit and two-unit residences. The proposed three story design and partially covered roof deck results in bulk and scale of the development that is consistent with the existing neighborhood pattern of development and expected future development consistent with applicable development standards.
 4. The development is located on an inland property in a developed area approximately 655 feet from the mean high tide line of the Pacific Ocean and 215 feet from the bay. The project site is separated from the bay (the nearest body of water) by a row of residences and East Balboa Boulevard. The finished floor elevation of the first floor of the proposed structure is 9.55 feet based on the North American Vertical Datum of 1988 (NAVD88), which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures. The identified distances from the coastal hazard areas coupled with the 9.55-foot NAVD88 finish floor elevation will help to ensure the project is reasonably safe for the economic life of the structure.
 5. The property is located in an area known for the potential of seismic activity and liquefaction. All projects are required to comply with the California Building Code (CBC) and Building Division standards and policies. Geotechnical investigations specifically addressing liquefaction are required to be reviewed and approved prior to the issuance of building permits. Permit issuance is also contingent on the inclusion of design mitigation identified in the investigations. Construction plans are reviewed for compliance with approved investigations and CBC prior to building permit issuance.
 6. The project is designed to utilize a Secant Pile system to construct the subterranean basement that eliminates the need for dewatering and discharge across the beach.
 7. The development is set back approximately 215 feet from coastal waters. Due to the large distance, a Water Quality Management Plan is not required. A post-construction drainage system will be installed that includes drainage and percolation features designed

to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.

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:

1. The project site is located between the nearest public road and the sea or shoreline; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the bay front and beach front is available approximately 118 feet east of the site at the intersection of East Balboa Boulevard and "B" Street, and also 288 feet to the west of the site at the intersection of East Balboa Boulevard and "A" Street. Public beachfront parking lots exist at the street ends between "B" Street and Adams Street.
2. The existing single-unit dwelling located at 921 East Balboa Boulevard and adjacent single-unit dwelling located at 918 East Ocean Front are currently nonconforming because they do not provide the required two off-street parking spaces each, theoretically resulting in four on-street parking spaces utilized. Project implementation will result in the demolition of the two nonconforming dwellings. The proposed Phase 1 component of the project driveway will necessitate a new curb cut on East Balboa Boulevard, resulting in the temporary loss of on-street public parking. However, the temporary driveway allows the proposed single-unit dwelling at 918 East Ocean Front vehicular access to a new two-car garage and provides four additional off-street uncovered parking spaces, eliminating the need to rely on street parking that can be used by the public. Upon the implementation of Phase 2 of the project and construction of the alley, the applicant will be required to close the curb cut consistent with Municipal Code Section 21.40.070.C.
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 or access opportunities on the site. The project site is not located within the viewshed of distant public viewing areas. The project is located on an inland lot and will ultimately replace an existing single-unit residence with a new single-unit residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated future neighborhood pattern of development. Therefore, the project does not have the potential to degrade the visual quality of the Coastal Zone or result in significant adverse impacts to public views.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Coastal Development Permit No. CD2017-088, 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 13TH DAY OF SEPTEMBER, 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. The basement construction shall utilize a Secant Pile system, as illustrated on approved plans, eliminating the need for dewatering. No dewatering to the public right-of-way, park, or beach area is permitted.
3. Prior to the issuance of a building permit, a 5-foot-wide dedication for alley and utility purposes shall be granted to the City along the rear property line.
4. Prior to the issuance of a building permit, a private ingress/egress easement shall be granted on the 921 East Balboa Boulevard property for the benefit of 918 East Ocean Boulevard. The easement shall terminate upon the completion of an alley connection to either "A" Street or "B" Street that provides adequate vehicular access to 918 East Ocean Front and the driveway approach in front of 921 East Balboa Boulevard shall be abandoned and plugged per City Standards.
5. A 20-foot-wide alley segment shall be constructed at the rear of 918 East Ocean Front and 921 East Balboa Boulevard per City Standard STD-141-L.
6. Installation of the driveway approach along the East Balboa Boulevard frontage will require a City palm tree to be removed. The owner shall pay to the City \$1,539.43 for the installation of a 48-inch box tree elsewhere in the City and pay for the cost of removal of the existing palm tree.
7. 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.
8. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
9. This Coastal Development Permit does not authorize any development seaward of the private property.
10. 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).
11. 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.

12. 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.
13. 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.
14. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
15. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

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. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31, outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:
 - A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
27. This Coastal Development Permit No. CD2017-088 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.
28. 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 Shaoulian East Balboa Residence including, but not limited to, Coastal Development Permit No. CD2017-088 (PA2017-203). 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. ZA2018-104

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING COASTAL DEVELOPMENT PERMIT NO. CD2017-089 TO DEMOLISH AN EXISTING SINGLE-FAMILY RESIDENCE AND CONSTRUCT A NEW SINGLE-FAMILY RESIDENCE AND ATTACHED 2-CAR GARAGE LOCATED AT 918 EAST OCEAN FRONT (PA2017-204)

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

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by Brion Jeannette Architecture, with respect to property located at 918 East Ocean Front, requesting approval of a coastal development permit.
2. The lot at 918 East Ocean Front is legally described as Lot 24, Block 14, Tract Balboa Tract.
3. The applicant proposes the demolition of an existing one-story single-family residence and construction of a new 3-story, 3,379-square-foot single-family dwelling (including 1,069-square-foot basement) and 382-square-foot two-car garage.
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-Family Residential) Zoning District.
5. The subject property is located within the coastal zone. The Coastal Land Use Plan category is Two-Unit Residential Detached (RT-D) and it is located within the R2 (Two-Unit Residential) Coastal Zone District.
6. A public hearing was held on September 13, 2018, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the hearing was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this hearing.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project is categorically exempt pursuant to Title 14 of the California Code of Regulations Section 15303, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act (CEQA) under Class 3 (New Construction or Conversion of Small Structures), because it has no potential to have a significant effect on the environment.
2. Class 3 exempts the demolition of up to three single-family residences and additions of up to 10,000 square feet to existing structures. The proposed project consists of the demolition of one single-family residence and the construction of a new 3,379-square-foot single-family dwelling and 382-square-foot two-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 2,760 square feet and the proposed floor area is 2,692 square feet (excluding 1,069-square-foot subterranean basement). The floor area of a subterranean basement is not included in the calculation of total gross floor area pursuant to Newport Beach Municipal Code (NBMC) Section 21.18.030.
 - b. The proposed development provides the minimum required setbacks, which are 9 feet along the front property line abutting East Ocean Front, 3 feet along each side property line and 0 feet along the rear property line abutting the future 20-foot-wide alley.
 - c. The highest guardrail is less than 24 feet from established grade (11.66 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 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.
 - e. Until the City can acquire the necessary dedications to complete the alley connecting "A" Street to "B" Street, vehicular access to the dwelling will be provided to East Balboa Boulevard via a vehicular access easement across the property to the rear located at 921 East Balboa Boulevard. The easement will be required to maintain vehicular access to 918 East Ocean Front, until such time the alley is constructed.

2. The property currently consists of one legal lot developed with a single-family residence. The neighborhood is predominantly developed with two- and three-story, single-unit and two-unit residences. The property to the east is similarly developed with single-family residence with vehicular access taken via a driveway developed on the 923 East Balboa Boulevard property to the rear.
3. The proposed three story design and partially covered roof deck results in bulk and scale of the development that is consistent with the existing neighborhood pattern of development and expected future development consistent with applicable development standards.
4. As a condition of approval, the property owner will be required to dedicate the rear 15 feet of the property to the City for alley purposes.
5. The subject property fronts the Pacific Ocean, but is separated from the shoreline by a very wide sandy beach and public park (approximately 550-foot separation). The project site is not protected by a bulkhead.
6. The finish floor elevation of the proposed dwelling is 12.66 feet based on the North American Vertical Datum of 1988 (NAVD88), which exceeds the minimum 9.0-foot (NAVD88) elevation standard for new structures. A Coastal Hazard Report and Wave Runup Study prepared by GeoSoils, Inc., dated September 22, 2017, indicates a likely sea level rise projection of between 1.8 and 3.3 feet over the next 75 years, resulting in a future water elevation of between 9.3 feet and 10.8 feet (NAVD). The report concludes it is very unlikely that any type of wave will reach the site even considering a 3.3-foot sea level rise and that the proposed project is reasonably safe from the shoreline erosion due to lack of wave or wakes that can erode sand from the beach. Overall, the analysis concludes that the proposed project will be safe from flooding hazards for the next 75 years. Furthermore, the report concluded that due to the distance of the property from the current mean high tide line (approximately 550 feet) that it is unlikely that the mean high tide line will reach the property within the next 75 years.
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. The project is designed to utilize a Secant Pile system to construct the subterranean basement that eliminates the need for dewatering and discharge across the beach.
10. The development is set back approximately 300 feet from coastal waters. Due to the large distance, a Water Quality Management Plan is not required. A post-construction drainage system will be installed that includes drainage and percolation features designed to retain dry weather and minor rain run-off on-site to ensure the project does not impact water quality. Any water not retained on-site is directed to the City's storm drain system.
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; however, the project will not affect the public's ability to gain access to, use, and/or view the coast and nearby recreational facilities. Vertical access to the bay front and beachfront is available approximately 120 feet east of the site at the intersection of East Ocean Front and "B" Street, and also 264 feet to the west of the site at the intersection of East Ocean Front and "A" Street. Public beach front parking lots exist at the street ends between "B" Street and Adams Street.
2. Lateral access and views of the ocean are also available along an existing 6-foot-wide public sidewalk (Ocean Front Boardwalk) in front of the project site. The existing encroachment of a patio slab and perimeter walls to the inland edge of the Ocean Front Boardwalk are consistent with the City's Oceanfront Encroachment Policy Guidelines of the Local Coastal Program and will not impede public access along the sidewalk.
3. The existing single-unit dwelling located at 918 East Ocean Front and adjacent single-unit dwelling located at 921 East Balboa Boulevard are currently nonconforming because they do not provide the required two off-street parking spaces each, theoretically resulting in four on-street parking spaces utilized. Project implementation will result in the demolition of the two nonconforming dwellings and will necessitate a new curb cut on East Balboa Boulevard in order to provide vehicular access to the site, resulting in the temporary loss of on-street public parking. However, the temporary driveway allows the proposed single-unit dwelling at 918 East Ocean Front vehicular access to a new two-car garage and provides four additional off-street uncovered parking spaces, eliminating the need to rely on street parking that can be used by the public. Upon the implementation of Phase 2 of Coastal Development Permit No. CD2017-088 and construction of the alley, the property

owner will be required to close the curb cut consistent with Municipal Code Section 21.40.070.C.

4. The project site is located adjacent to Peninsula Park, a designated public viewpoint, as identified in the Coastal Land Use Plan due to the views of the ocean looking south. Due to the location of the project near this protected public view, an initial evaluation of the potential impact to the view shed or the scenic and visual qualities of the coastal zone was conducted pursuant to Municipal Code Section 21.30.100. Expansive views of the Balboa Pier, Pacific Ocean, and public beach are afforded from the public sidewalk along East Ocean Front and Peninsula Park. However, the subject property is located landward of the public vantage points and not between public vantage points and these view features. Therefore, the project will not impact existing, nor provide an opportunity to enhance, public views along these vantage points.
5. The project will replace an existing single-unit residence with a new single-unit residence that complies with all applicable Local Coastal Program (LCP) development standards and maintains a building envelope consistent with the existing and anticipated future neighborhood pattern of development. Therefore, the project does not have the potential to 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. CD2017-089, 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 13TH DAY OF SEPTEMBER, 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. The basement construction shall utilize a Secant Pile system, as illustrated on approved plans, eliminating the need for dewatering. No dewatering to the public right-of-way, park, or beach area is permitted.
3. Prior to the issuance of a building permit, a 15-foot-wide dedication for alley and utility purposes shall be granted to the City along the rear property line.
4. Prior to the issuance of a building permit, a private ingress/egress easement shall be granted on 921 East Balboa Boulevard property for the benefit of 918 East Ocean Boulevard. The easement shall terminate upon the completion of an alley connection to either "A" Street or "B" Street that provides adequate vehicular access to 918 East Ocean Front and the driveway approach in front of 921 East Balboa Boulevard shall be abandoned and plugged per City Standards.
5. A 20-foot-wide alley segment shall be constructed at the rear of 918 East Ocean Front and 921 East Balboa Boulevard per City Standard STD-141-L.
6. Prior to final inspection and occupancy of 918 East Ocean Front, the property at 921 East Balboa Boulevard shall be improved with a private driveway consistent with Coastal Development Permit No. CD2017-088.
7. Installation of the driveway approach along the East Balboa Boulevard frontage will require a City palm tree to be removed. The owner shall pay to the City \$1,539.43 for the installation of a 48-inch box tree elsewhere in the City and pay for the cost of removal of the existing palm tree.
8. All encroachments within the East Ocean Front right-of-way shall comply with City Council Policy L-12. A new Ocean Front Encroachment permit shall be obtained for the new ownership.
9. 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.
10. 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.

11. 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.
12. This approval does not authorize any new or existing improvements (including landscaping) on State tidelands, public beaches, or the public right-of-way.
13. This Coastal Development Permit does not authorize any development seaward of the private property.
14. 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).
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. Revisions to the approved plans may require an amendment to this Coastal Development Permit or the processing of a new coastal development permit.
19. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
20. 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.

21. 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.
22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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.
29. 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.
30. The applicant is responsible for compliance with the Migratory Bird Treaty Act. In compliance with the (MBTA), grading, brush removal, building demolition, tree trimming, and similar construction activities shall occur between August 16 and January 31,

outside of the peak nesting period. If such activities must occur inside the peak nesting season from February 1 to August 15, compliance with the following is required to prevent the taking of Native Birds pursuant to MBTA:

- A. The construction area shall be inspected for active nests. If birds are observed flying from a nest or sitting on a nest, it can be assumed that the nest is active. Construction activity within 300 feet of an active nest shall be delayed until the nest is no longer active. Continue to observe the nest until the chicks have left the nest and activity is no longer observed. When the nest is no longer active, construction activity can continue in the nest area.
 - B. It is a violation of state and federal law to kill or harm a native bird. To ensure compliance, consider hiring a biologist to assist with the survey for nesting birds, and to determine when it is safe to commence construction activities. If an active nest is found, one or two short follow-up surveys will be necessary to check on the nest and determine when the nest is no longer active.
31. This Coastal Development Permit No. CD2017-089 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.
32. 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 Shaoulian East Ocean Front Residence including, but not limited to, Coastal Development Permit No. CD2017-089 (PA2017-204). 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.